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ACTIVITIES OF THE COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

AND ITS

SUBCOMMITTEES

FOR THE

ONE HUNDRED ELEVENTH CONGRESS



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¹ Senator Robert F. Bennett served on the Committee from 7/31/2009 to 3/9/2010.

² Senator Michael F. Bennet left the Committee on 9/29/2009.

³ Senator Paul G. Kirk, Jr. served on the Committee from 9/29/2009 to 3/9/2010.

⁴ Senator Edward E. Kaufman served on the Committee from 3/9/2010 to 11/15/2010.

⁵ Senator Scott P. Brown joined the Committee on 3/9/2010.

⁶ Senator Christopher A. Coons joined the Committee on 11/15/2010.

⁷ Senator Roland W. Burris left the Committee on 11/29/2010.

⁸ Senator Mark Kirk joined the Committee on 12/7/2010.

CONTENTS

	Page
I. Highlights of Activities	1
Homeland Security	3
A. Violent Islamist Extremists, Homegrown Terror, and Counterterrorism	4
B. Fort Hood Investigation	6
C. IRTPA Five Years Later/Intelligence	8
D. Cybersecurity	11
E. Biosecurity	13
F. Weapons of Mass Destruction	15
G. Border and Travel Security	17
H. Emergency Preparedness and Response	20
I. Federal Building Security	26
J. Internal DHS Matters	27
K. Quadrennial Homeland Security Review	28
Contracting Reform	28
A. Defense Contract Audit Agency	28
B. Reducing Reliance on Government Contractors	29
C. Special Inspector General for Iraq Reconstruction	29
D. New Subcommittee	30
American Recovery and Reinvestment Act	30
Protecting Federal Employees	31
A. Domestic Partners	31
B. Retirement Equity	31
C. Whistleblowers	32
D. Relocation Expenses	32
Improving Government Efficiency	32
A. Information Technology	32
B. E-Government	33
C. Telecommunications	34
D. Improper Payments	34
E. Performance Measurements	34
District of Columbia	34
A. Voting Rights	34
B. Education	35
Working for Connecticut	36
A. Homeland Security Grants	36
B. H1N1	36
Miscellaneous	37
A. Iran Sanctions	37
B. Fiscal Balance	37
C. Payment for Rides on Corporate Jets	37
D. Policy Czars	38
E. Census	38
F. Presidential Transitions	38
G. Sam Hicks	39
H. Inspectors General	39
II. Committee Jurisdiction	40
III. Bills and Resolutions Referred and Considered	43
IV. Hearings	43
V. Reports, Prints, and GAO Reports	47
Committee Reports	47

V

	Page
Committee Prints	50
GAO Reports	50
VI. Official Communications	58
VII. Legislative Actions	58
Measures Enacted Into Law	59
Postal Naming Bills	64
VIII. Presidential Nominations	69
IX. Activities of the Subcommittees	73
FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY SUBCOMMITTEE (FFM)	
I. Hearings	73
II. Legislation	84
III. GAO Reports	90
OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA SUBCOMMITTEE (OGM)	
I. Hearings	93
II. Legislation	109
Measures Enacted Into Law	109
Measures Favorably Reported by the Subcommittee and Passed by the Senate	111
Measures Referred to the Subcommittee on which Hearings were held or other Legislative Action was taken	113
Measures which did not advance beyond referral to Subcommittee	113
III. GAO Reports	116
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS (PSI)	
I. Historical Background	119
A. Subcommittee Jurisdiction	119
B. Subcommittee Investigations	121
II. Subcommittee Hearings during the 111th Congress	126
III. Legislation Activities during the 111th Congress	143
IV. Reports	148
V. GAO Requested and Sponsored Reports	154
AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE SECTOR PREPAREDNESS AND INTEGRATION (SLPSPI)	
I. Hearings	164
II. Legislation	168
AD HOC SUBCOMMITTEE ON DISASTER RECOVERY (SDR)	
I. Hearings	170
II. Legislation	176
AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT (SCO)	
I. Hearings	177
II. Legislation	188

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DURING THE 111TH CONGRESS

JULY 31, 2012.—Ordered to be printed

Mr. LIEBERMAN, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

REPORT

This report reviews the legislative and oversight activities of the Committee on Homeland Security and Governmental Affairs and its Subcommittees during the 111th Congress. These activities were conducted pursuant to the Legislative Reorganization Act of 1946, as amended; by Rule XXV(k) of the Standing Rules of the Senate; and by additional authorizing resolutions of the Senate. See Section II, “Committee Jurisdiction,” for details.

Senator Lieberman was Chairman of the Committee during the 111th Congress; Senator Collins was the Ranking Member.

Major activities of the Committee during the 111th Congress included legislation on the 9/11 Commission recommendations, contracting reform, conducting an investigation into the Fort Hood shootings, and holding hearings on the new Administration’s nominees. Discussion of these major activities appears in Section I below; additional information on these and other measures appears in Section VII, “Legislative Actions.”

Extensive information about the Committee’s history, hearings, legislation, documents, Subcommittees, and other matters is available at the Web site, <http://hsgac.senate.gov/>.

I. HIGHLIGHTS OF ACTIVITIES

The 111th Congress opened with a burst of energy borne of a series of firsts. A new President, Barack Obama, had been elected to lead the country. He was the first African-American ever elected President. He was also the first Democrat to hold the Nation’s top office in 8 years. The euphoria of a Nation hoping it had moved beyond its past racial strife was tempered, however, by the stark reality of the worst economy since the Great Depression. The autumn of 2008 had seen a near collapse of the capitalist system, a collapse averted only by the intervention of the Federal Government, which singlehandedly propped up the financial services sector and the automobile industry to avoid a complete economic meltdown.

Against this backdrop, the Homeland Security and Governmental Affairs Committee (HSGAC) spent a good portion of the year helping the new Administration move its nominees through the lengthy and often bumpy Senate nomination process. At the same time, the Committee launched a series of oversight hearings to examine an outdated Federal financial regulatory structure and to oversee the billions of dollars in stimulus funding Congress had approved the previous fall to jumpstart the economy.

The Committee's attention since 2003 to homeland security issues focused early in the 111th Congress on the ever escalating violence along the Southern border with Mexico and the successful efforts of an al-Qaeda offshoot in Somalia to recruit young Somali-Americans to its cause. In the latter half of 2009, however, the Committee pivoted back to homegrown terrorism when a plot to bomb the New York subway system was uncovered in September and when a radicalized Muslim U.S. Army Major opened fire at Fort Hood, Texas, in November killing 13 people.

Committee Chairman Joseph Lieberman, ID-Conn., and Ranking Member Susan Collins, R-Me., immediately launched an investigation into the Fort Hood shootings, which Chairman Lieberman called the worst terrorist event in this country since September 11, 2001. Subpoenas were served to the Departments of Defense and Justice, and eventually, the investigation found that two colleagues had called Major Nidal Hasan a "ticking time bomb." The Chairman's and Senator Collins's final report, issued in the 112th Congress, concluded that the Department of Defense and the FBI "collectively had the information necessary to have detected the radicalization of Major Nidal Hasan to violent Islamist extremism but failed to understand or act on it."

The Committee had also begun a series of hearings in the fall of 2009 to examine the Intelligence Reform and Terrorist Prevention Act of 2004 (IRTPA), 5 years after it was signed into law. When a young Nigerian botched an attempt to blow up an airplane on Christmas Day 2009 with explosives smuggled through security in his underwear, the Committee turned its IRTPA hearings into a more specific look at how both Major Hasan and the so-called "underwear bomber," Umar Farouk Abdulmutallab, had managed to break through the Nation's homeland security and intelligence defenses and whether the Director of National Intelligence (DNI) needed additional authorities to carry out his responsibilities.

In other homeland security investigative work, the Committee's inquiry into two troubled Department of Homeland Security (DHS) programs meant to prevent the smuggling of nuclear materials into this country led the Department to freeze the two programs. And work began in earnest on bipartisan legislation to remake the government's program for securing its own cyber systems and networks and that of the most critical infrastructure.

Within the governmental affairs realm, the Committee upheld its record of promoting effective and efficient government through close oversight of a variety of agencies and programs within its jurisdiction. In addition to the previously mentioned hearings on the American Recovery and Reinvestment Act (ARRA), the Committee tracked the government's preparation and response to the outbreak of the H1N1 virus through hearings and oversight letters. When the Deepwater Horizon oil rig exploded in the Gulf of Mexico in

April 2010, the Committee monitored the public and private sector response to what was to become the largest oil spill in the Nation's history. The Committee made a number of recommendations for how to prevent a similar spill in the future.

HSGAC continued its efforts to expose waste, fraud, and abuse, in part, through oversight of acquisition and procurement and the government's use of contractors to carry out "inherently" governmental work. The Committee worked with the Administration to implement contracting reforms passed in the previous Congress as part of the FY2009 National Defense Authorization Act. HSGAC also learned, through staff inquiry, that DHS's workforce was almost twice the size as had been thought because of the proliferation of contractors, meaning DHS has almost 400,000 employees rather than the previously accepted number of 270,000. The Committee continued its decade long work monitoring Defense Department contracting, particularly as it pertained to the wars in Iraq and Afghanistan. At the Chairman's request, the Government Accountability Office (GAO) investigated the Defense Contract Audit Agency (DCAA), finding major mismanagement and faulty auditing. The GAO reports helped spur a change in leadership at the top of the agency.

On top of the Committee's oversight responsibilities, Chairman Lieberman and Senator Collins moved a number of bills out of Committee to improve government performance across a range of homeland security and governmental affairs issues. Among the measures they introduced and marked up were comprehensive, bipartisan cybersecurity legislation to protect the Nation's most critical infrastructures from hostile attack; legislation to reorganize the way the government secures laboratories working with the most dangerous biological pathogens; and legislation to reform the little known DHS agency in charge of protecting workers and visitors at 9,000 Federal buildings nationwide, the Federal Protective Service (FPS).

Chairman Lieberman continued his strong advocacy for Federal workers through Committee passage of a bill to provide benefits for the domestic partners of Federal employees and a number of provisions in the FY2010 National Defense Authorization Act to ensure that Federal employees and retirees are treated fairly.

The Chairman also advocated on behalf of the citizens of Connecticut, particularly through port, transit, and first responder grants.

In total, the Committee reported 60 bills out of Committee in the 111th Congress (not including postal naming bills or nominations)—18 of which became law. The Committee also reported out 42 nominations, all of which were confirmed by the full Senate.

HOMELAND SECURITY

Throughout 2009-2010, the Department of Homeland Security continued to improve the security of the American people even as it struggled to manage its vast portfolio and its equally vast workforce, which turned out to be twice as large as once thought due to the high number of contractors on payroll. A number of major procurement contracts such as SBI-net continued to be mismanaged in 2009-2010. And despite some high-profile successes—with the help of law enforcement—in tracking down terrorist plots, at least

two terrorists—Nidal Hasan and Umar Abdulmutallab—slipped through our homeland defenses. In 2009-2010, the phenomenon of homegrown terrorism was no longer a theory but the new face of terrorism in the United States.

A. VIOLENT ISLAMIST EXTREMISTS, HOMEGROWN TERROR, AND COUNTERTERRORISM

In the 111th Congress, the Committee's 4-year-long investigation into violent Islamist extremism shifted dramatically from a theoretical, law enforcement discussion to an examination of actual homegrown attacks and failed attacks.

The Committee began the year with a hearing January 8, 2009, on lessons to be learned from the November 2008 terrorist attack on a number of soft targets in Mumbai. Department of Homeland Security Under Secretary for Intelligence and Analysis Charlie Allen said disrupted plots often resurface, as appeared to be the case with the Mumbai attack, and the challenges of disrupting plots to soft targets, such as hotels, in the United States are enormous. The FBI's Donald Van Duyn remarked on the cutting edge technologies the Mumbai terrorists used to communicate with one another. And New York Police Commissioner Ray Kelly said government officials must educate the owners and operators of potential private sector targets that could be attacked.

A second hearing was held on January 28, 2009, to specifically examine how the private sector can protect itself from terrorist attacks. "The Mumbai terrorists attacked hotels, an outdoor café, a Jewish community center and a movie theater—places that are not traditionally subject to a high level of security," Chairman Lieberman said. "The protection of these kinds of soft targets is a challenge in an open society as—by definition—they are facilities that must be easily accessible to the general public and are often used by large number of people at one time. But that does not mean that we can leave soft targets unguarded."

The Committee's third hearing on violent Islamist extremism, on March 11, 2009, focused on the radicalization and recruitment of young Somali-Americans by an al-Qaeda linked, Somali organization called al-Shabaab. The recruitment of these young men—mostly from Minneapolis—posed the troubling specter that the young men could travel back and forth between the U.S. and Somalia unnoticed because they were American citizens and had American passports. "This is probably the most significant case of homegrown American terrorism that we have found yet," Chairman Lieberman said.

Two men were indicted in Minneapolis on July 14, 2009, in connection with the recruitments. The Chairman said the case was "a wakeup warning that violent Islamist extremism is now spreading in America." On November 23, 2009, the Chairman commended the FBI for bringing terrorism charges against eight people in the disappearance of the young men, bringing to 14 the total number of people arrested or charged in the case. And on August 5, 2010, the Chairman praised the FBI for arresting two people and charging 14 more with material support for al-Shabaab.

Events over the next several months bore out the Committee's longstanding investigation into homegrown terrorism. On May 21, 2009, Najibullah Zazi, a legal permanent resident, was arrested for

attempting a terror attack on the New York subway system. The Senator called the intelligence and police work that snagged Najibullah Zazi, “brilliant” and warned we must be “vigilant” for the radicalization and recruitment of people within the United States. On June 1, 2009, an Army recruiter in Little Rock, Arkansas, was shot and killed by alleged terrorist Carlos Bledsoe (aka “Abdulahakim Mujahid Muhammad”), who indicated he had been trained in Yemen. The Senator said the tragedy “illustrates the very real dangers posed by homegrown terrorism in the United States.”

In August and September 2009, the FBI announced the arrests of several men in Colorado, North Carolina, Texas, and Illinois who were involved in four separate, planned attacks. On September 30, the Committee convened its annual terrorism threat hearing with testimony from DHS, the FBI, and the National Counterterrorism Center (NCTC). All of these cases, the Senator said at the hearing, “realize our worst fears about homegrown Islamist terrorist attacks in America.”

Those worst fears were realized again on November 5, 2009, when Army Major Hasan shouted “Allahu Akbar” before he shot and killed 13 people at the Fort Hood Army base and wounded 43 others—the worst case of terrorism within U.S. borders since 9/11. (See below for details on the Committee’s Fort Hood investigation).

Capping off a year of increased homegrown and foreign-influenced terrorist incidents, on Christmas Day 2009, Nigerian Umar Abdulmutallab failed to ignite explosives smuggled through security in his underwear on a Northwest Airlines plane that left Amsterdam bound for Detroit, becoming the third terrorist to slip through the layered and international homeland security and intelligence apparatus of the U.S. Government. Fortunately, he was unable to light his explosives, and passengers restrained him until the plan landed, thwarting his planned attack. Alarming, as it turned out, Umar Abdulmutallab’s father had warned U.S. embassy officials in Nigeria about his son’s radicalization. The young man’s name was placed on a broad terrorist database but not the more selective watch list checked by airport officials, and so he managed to secure a visa to visit America.

The Chairman publicly stated on December 28, 2009, that he was “troubled by several aspects of this case, including how the suspect escaped the attention of the State Department and law enforcers” to obtain a travel visa even though his father had alerted authorities about his son’s extremist behavior.

The Chairman and Senator Collins subsequently wrote a letter dated January 25, 2010, to the Attorney General and the President’s Assistant for Homeland Security and Counterterrorism, urging the Administration to move Umar Abdulmutallab from civilian to military custody as they considered him an enemy combatant.

Terrorist incidents continued to pile up, and American lives were spared again and again in part because of the terrorists’ incompetence. On May 1, 2010, an alert street peddler noticed a smoking SUV in Times Square and alerted police. The Chairman issued a statement May 3 praising the New York City police, the vendor who “saw something and said something,” and the people of New York, who remained calm throughout the ordeal. The next day, Customs and Border Prevention agents plucked Faisal Shazhad off

a plane preparing to leave JFK Airport for Dubai. He was charged with terrorism related crimes, pleaded guilty, and in October 2010 was sentenced to life in prison.

The Committee held a previously scheduled hearing on a separate topic—banning guns sales to suspected terrorists—on May 5, 2010. New York City Mayor Michael Bloomberg and Police Chief Ray Kelly testified. “Our growing understanding of the plot to attack Times Square reminds us that Islamist extremists have declared war on America,” the Chairman said. “In fact, they have attempted attacks on Americans more than a dozen times in just the last year. The only two since 9/11 that have been carried out and taken American lives were with firearms.” Those two examples were Nidal Hasan and Carlos Bledsoe.

In observance of the ninth anniversary of the 2001 terror attacks, the Chairman issued a statement paying tribute to the more than 3,000 people who lost their lives on September 11, 2001, decried violent Islamist extremism, and called for unity of effort to defeat terrorism. “As we remember . . . those who lost their lives that day, let us do so with a renewed sense of commitment, determination, and unity to defeat the terrorists who struck our homeland and whose totalitarian ideology represents a threat to all of humanity.”

The same day, the Senator issued a statement deploring the declaration of a fringe Florida preacher to turn September 11 into an “International Burn a Quran Day” as “inconsistent with American values” and dangerous to American troops in Iraq and Afghanistan.

The Committee held its annual terrorist threat hearing on September 22, 2010, under far different circumstances than it had a year earlier. Clearly, the threat had changed in that time. The Chairman made three observations: An increase in the pace of homegrown and foreign-based terrorism had occurred; more Americans were being recruited and joining the leadership ranks of al-Qaeda and affiliated groups; and the Internet is the preferred way for Americans to self radicalize and for terrorists to indoctrinate and recruit.

B. FORT HOOD INVESTIGATION

On November 5, 2009, the worst terrorist attack on the United States since 9/11 occurred on the Army base in Fort Hood, Texas—costing 13 employees of the Department of Defense (DOD) their lives. Twelve of the victims were soldiers preparing for deployment to Iraq. The shooter was an Army major, an American citizen, and a Muslim who had become radicalized with the help of the notorious radical Islamist cleric Anwar al-Awlaki.

Three days later, on Fox News Sunday, Chairman Lieberman announced the Committee would investigate the shootings and, the following day, the Chairman and Senator Collins vowed the Committee in no way would interfere with the criminal investigation. In a public statement, the Senators specified that they would look at “whether the government missed warning signs that should have led to expulsion, and what lessons we can learn to prevent such future attacks.”

Pressure mounted over the following week from those who thought the Administration should investigate without Congress’ intrusion. To quell these concerns, the Chairman and Senator Col-

lins issued an unusual Saturday, November 14 statement reinforcing their intent to pursue an inquiry separate from the criminal investigation. In doing so, they repeated the President's own words, when he said in his weekly radio address that Congress should investigate the tragedy. The Chairman and Senator Collins responded in kind: "We appreciate that [the President] recognizes Congress' constitutional mandate to conduct oversight into tragic events such as these and we want to reiterate that our Committee will conduct a responsible, apolitical inquiry."

Four days later on November 18, 2009, the Chairman and Senator Collins held a press conference to define their investigatory goals. "We know violent Islamist extremism is a threat here in the U.S. and we know the military is a target." The Chairman said, "We will conduct this investigation to determine what we can do to better protect our military service personnel and all of our citizens. We will focus on what the Federal Government knew and what it did concerning Major Hasan and whether action should have been taken to prevent him from carrying out his attack."

The next day, November 19, 2009, the Committee held its first and only hearing in the Fort Hood inquiry. Four of the five witnesses—a retired Army general, former homeland security officials, a New York Police Department official, and a think tank expert—agreed the shooting was a terrorist attack. The fifth witness declined to comment because of the ongoing criminal investigation. "We look at the Fort Hood murders not as an isolated event but as part of a larger pattern of homegrown terrorism that has emerged over the past several years," the Chairman said. "Our purpose is to determine whether that attack could have been prevented, whether the Federal agencies and employees involved missed signals or failed to connect the dots in a way that enabled Major Hasan to carry out his deadly plan. If we find such errors or negligence, we will make recommendations to guarantee, as best we can, that they never occur again."

On December 15, after a month of foot dragging by the Departments of Defense (DOD) and Justice (DOJ) over sharing documents and witnesses needed for the Committee's investigation, the Chairman and Senator Collins received a closed-door briefing from DOD officials on Army personnel and information-sharing policies. "The Administration has taken its time in responding to our requests for documents and witnesses but is moving in the right direction," the Chairman said, calling the dispute a "classic struggle between the Executive and Legislative Branches."

Justice Department officials came to the Hill to give the Chairman and Senator Collins a closed-door briefing the following week, on December 22, 2009. The Chairman said that while the Administration was "slowly responding to our information requests," he urged greater speed so that Congress could fulfill its constitutional duty.

On January 13, 2010, in a letter to DOD Secretary Robert Gates, the Chairman and Senator Collins issued preliminary policy recommendations calling for the prohibition of violent Islamist extremism in the military and training service members to recognize, address, and report Islamist extremism.

The DOD released its internal review of the Fort Hood shooting 2 days later, on January 15, 2010. In response, the Chairman said

he was disappointed the review “does not adequately recognize the specific threat posed by violent Islamist extremism to our military.” The omission, Chairman Lieberman said, underscored the need for the Committee’s investigation.

Throughout the spring of 2010, the Committee battled to obtain the Administration’s cooperation. A total of six letters requesting documents were sent—four to DOD and two to DOJ—but the Administration stood firm. Sharing the requested documents and allowing witnesses to testify, it argued, would harm the prosecution of Major Hasan. On April 15, 2010, the Chairman and Senator Collins ratcheted up the pressure by announcing they had prepared subpoenas and would issue them on April 19, 2010, if they did not receive the information and witnesses they sought. The following day, the news media reported that Defense Secretary Robert Gates said the Pentagon would give Congress information as long as it did not jeopardize the prosecution. The Senators issued a press release declaring that the Administration’s refusal to provide the information they sought was inconsistent with the standard articulated by Secretary Gates.

On April 19, 2010, after a 5-month Committee effort to obtain the information it needed for its investigation, officials at DOD and DOJ were served with subpoenas. A Committee vote followed by a full Senate vote would be needed to enforce them.

A week later, on April 27, 2010, the Chairman and Senator Collins received some of the documents they had requested but insisted that if the Administration was to comply with the subpoenas, it must turn over many more documents, as well as witnesses.

At a Committee business meeting the next day, the Chairman told the full Committee “it would be a very bad precedent” to allow the Administration to deny the Committee the information it had requested. “That would haunt Congress’s future ability to conduct oversight of the Executive Branch,” he said. “If we cannot reach an accommodation, Senator Collins and I will return to the full Committee for your support to enforce the subpoenas and then go to the full Senate.”

The Committee reinforced its case with a statement April 29, 2010, from a leading, impartial expert on military justice—Eugene R. Fidell, President of the National Institute of Military Justice and a senior research scholar at Yale Law School—who declared that providing the sought-after witnesses and documents would pose no problem at all for Major Hasan’s criminal prosecution.

Ultimately, the Committee did not vote on the subpoenas as the first step toward enforcing them. Instead, the Committee reached an accommodation with DOD and DOJ, receiving the information needed to conduct its investigation.

C. IRTPA FIVE YEARS LATER/INTELLIGENCE

On December 9, 2009, the Committee held the first of what was intended to be a series of hearings examining the impact of the Intelligence Reform and Terrorist Prevention Act of 2004 (IRTPA) 5 years after its enactment. The failed terrorist attack on Christmas Day turned those hearings into an urgent examination of how IRTPA’s goals still remain to be realized.

The hearing focused on the status of Federal programs designed to prevent terrorists from entering the United States such as US-Visit, the Visa Waiver Program, and terrorist watch lists—programs created either by IRTPA or the second 9/11 Commission recommendations implementation bill of 2007. The Chairman indicated several weaknesses in travel security—such as the security of primary source documents like birth certificates, agreements to share biometric information and watch list information with 35 visa waiver program countries, and implementation of the US-Visit biometric exit program.

After Umar Abdulmutallab was arrested on Christmas Day, the IRTPA hearings changed in tone—it was now clear that aspects of the law were not working as intended—and expanded to include interagency cooperation and information sharing between DHS, DOJ, the State Department (DOS), and the Director of National Intelligence (DNI). The Committee's oversight also focused on the extent to which the DNI has or has not emerged as the government's chief intelligence officer and whether additional authorities for the DNI were needed to underscore the DNI's leadership over the intelligence community to ensure it operates effectively.

The Chairman and Senator Collins announced they would convene a January hearing to examine the layers of security meant to protect airline passengers from terrorist attacks—the layers that Umar Abdulmutallab successfully evaded—and how to strengthen them. On January 8, 2010, they announced DHS Secretary Napolitano, DNI Dennis Blair and NCTC Director Michael Leiter would testify at a hearing 12 days later. Each witness conceded a series of mistakes at that hearing in piecing together the evidence that might have prevented Umar Abdulmutallab from boarding the plane in Amsterdam—such as the failure to put him on a watch list after his father reported suspicions, a failure to analyze and comprehend intelligence that had been gathered about the young man, a failure to pull his visa, and a failure to detect the explosives he carried. The hearing further revealed that DOJ had not consulted any other Federal office on interrogation of the suspect or whether to try him in a civilian or military court. Director Leiter revealed the substandard computer capabilities of his agency, which although it had access to all intelligence agency databases, could not conduct a computer search across all of those databases.

The third hearing in the series took place on January 26, 2010, with the authors of the 9/11 Commission report as witnesses. Tom Kean and Lee Hamilton said what everyone knew to be true—the failure to disrupt the Fort Hood and December 25 attacks was the result of continued tensions among the intelligence community's component agencies. For the DNI to succeed, they said, the President must provide strong support. The Chairman noted that the government “must better organize our intelligence gathering and analysis efforts so crucial information can be mined more quickly from this vast mountain of data we build. The President also needs to clarify the primacy of the Director of National Intelligence, who has an immensely difficult job integrating 16 intelligence agencies.”

The fourth hearing in the series, on March 10, 2010, examined the terrorist watch lists and airport screening. The Chairman said anyone with ties to terrorist activities that is placed on the Terrorist Screening Database (TSDB), a larger list than the no-fly list,

should receive secondary screening. He also said that the U.S. should require identity verification documents from travelers bound for the U.S. at least 24 hours before flight time. “All the dots were on the table” the Chairman said in reference to the intelligence on the Christmas Day bomber. “But our government was unable to connect them—to separate this information out of the enormous mass of information the government collects and shares so that this terrorist could be stopped before he acted.”

The fifth hearing in the series, on March 17, 2010, took a closer look at the problems of intelligence community integration, including institutional resistance to the DNI, uncertainty about the DNI’s role, and competing national priorities that undermine support for reform. Witnesses testified that NCTC’s efforts to develop plans that integrate military, diplomatic, law enforcement, and economic capabilities across the government have been stymied by department failures to participate meaningfully in NCTC planning activity. And legal, policy, and technology challenges to intelligence analysis remain unresolved 9 years after 9/11. “The seemingly endless argument over authorities undermines the unit pride that all agencies in the intelligence community have,” said former Central Intelligence Agency (CIA) General Counsel Jeffrey Smith.

The sixth and last hearing of the series took place on April 21, 2010, and focused on visa security. The Chairman urged the State Department to expand the Visa Security Program (VSP) beyond the 14 of 57 high-risk consular posts around the globe that have VSP offices. “Securing the homeland is now a global enterprise,” the Chairman said “It begins well before people come to the United States.” The Homeland Security and State Departments “must work together to ensure that prospective travelers are fully vetted before boarding a plane bound for this country.”

Abruptly, on May 21, 2010, DNI Blair resigned. The Chairman and Senator Collins issued a strong statement calling intelligence reform a “work in progress.” The terrorist attacks at Fort Hood and the failed attacks on Christmas Day and in Times Square “illustrate a need for more effective coordination of our counterterrorism efforts . . . while the DNI has strong authorities, those authorities may need to be strengthened—particularly in the areas of intelligence agency budget and the selection of the intelligence leaders. Also, any perceived ambiguities regarding the DNI’s authorities must be resolved. . . . We also think we should make crystal clear that the DNI has authority over the CIA and over elements of the intelligence community within the Department of Defense and other Cabinet agencies.”

1. NATIONAL SECURITY

The committee developed a bipartisan legislative proposal (Senators Lieberman, Collins, and Voinovich) to strengthen national security by improving the efficiency of how agencies coordinate. Specifically, the legislation institutes a new human capital policy that requires that homeland and national security personnel do rotations in other departments in order to receive promotions to top national security positions in their home departments. This policy is similar to human capital policies used routinely by corporations that require their workers to serve in positions across different divisions in order to be able to assume corporate leadership positions.

Senator Lieberman held a hearing February 12, 2009, to examine whether the Homeland Security Council and the National Security Council, both located in the Executive Office of the President, should be merged. The Senator said he was open to a merger but worried that the interests of homeland security would be overshadowed by the interests of national security. One of the witnesses, Tom Ridge, who was the first Secretary of Homeland Security, strongly opposed the merger. Two other witnesses were in favor, and the fourth witness, Frances Fragos Townsend, who had been Assistant to the President for Homeland Security and Counterterrorism gave no opinion but outlined the pros and cons of each. Three months later, the White House restructured the homeland and national security councils but preserved each council as a separate body and retained access to the President by the Assistant to the President for Homeland Security and Counterterrorism. Senator Lieberman issued a statement expressing his approval of the reorganization.

Senator Lieberman and a bipartisan bicameral group of lawmakers asked the GAO to examine the coordination between the Northern Command and the civilian agencies it supports with regard to homeland security. GAO's report, released on September 11, 2009, found inconsistent coordination when exercising in collaboration with the State, local, and tribal governments that the command was created to support. GAO said that Northern Command (NORTHCOM) lacks sufficient experience in dealing with States; still lacks understanding of individual State emergency management structures; does not consistently involve States in major command readiness endeavors; and needed to improve its ability to share key information such as lessons learned and other after action reports.

D. CYBERSECURITY

1. PROTECTING CYBERSPACE AS A NATIONAL ASSET ACT, S. 3480

While the Committee has a long history of overseeing cyber security, the 111th Congress saw development of major bipartisan legislation to protect the cyber networks of the Nation's most critical infrastructures, in both the private and public sectors. Senate Majority Leader Harry Reid, D-Nev., said that cybersecurity was a critically important issue and he vowed to move legislation to close the Nation's vulnerability in the 111th Congress. Unfortunately, in part due to Senator Harry Reid's difficult re-election campaign, time ran out before the Senate could vote on the legislation.

The first cybersecurity hearing of the new Congress was held on April 28, 2009, in the context of an ongoing Administration review of its cyber security structure and policies. The Chairman and Senator Collins used the hearing as a platform from which to announce they would draft legislation. A second hearing was held September 14, 2009, on the epidemic of cybercrime in the private sector. The day before, the Chairman and Senator Collins had issued a press release announcing the hearing. "The internet is now a global asset—a new strategic high ground—that simply must be secured just as any military commander would seize and control the high ground of a battle field," the Chairman said. "But unlike a battlefield, securing cyberspace is much more complicated to do

since the Internet is an open, public entity. Security cannot be achieved by the government alone. Public-private partnership is essential. Together, business, government, law enforcement, and our foreign allies must partner to mitigate these attacks and bring these criminals to justice.”

On October 30, 2009, Chairman Lieberman delivered a speech before the Chamber of Commerce Cyber Security Task Force outlining the principles of his developing legislation. “There would be a Senate confirmed cyber security coordinator in the White House,” he said, “as well as sufficient authority and personnel for DHS to monitor Federal civilian networks and defends against malicious traffic; a risk-based approach, established by DHS, to secure the most critical infrastructure; a supply chain that emphasized security; and incentives to hire the best and the brightest cybersecurity employees.”

The Chairman and Senator Collins, along with Senator Tom Carper, D-Del., introduced the Protecting Cyberspace as a National Asset Act, S. 3480, and unveiled it at a press conference June 10, 2010. “The need for legislation is obvious and urgent,” the Chairman said. The bill “is designed to bring together the disjointed efforts of multiple Federal agencies and departments to prevent cyber theft, intrusion, and attacks across the Federal Government and the private sector,” Senator Lieberman continued. “Our economic security, national security, and public safety are now all at risk from new kinds of enemies—cyber warriors, cyber spies, cyber terrorists, and cyber criminals.” The bill would secure the Nation’s most critical infrastructure—the financial system, electrical grid, and water treatment facilities—against cyber attack, and enhance and improve the security of Federal Government networks. By streamlining, coordinating, and improving the Federal Government’s cyber security efforts, the bill would lead to cost savings and improved security.

On June 15, 2010, the Committee held its third cybersecurity hearing, this time specifically on the legislation just introduced. “We need to reorient our thinking about the risks inherent to our reliance on the Internet and cyberspace,” the Chairman said in his opening statement. “A sophisticated attacker could cripple our entire financial system, take down our electric grid or cause physical devastation equal to major conventional warfare.”

The following day, prominent House members—Jane Harman, D-Calif., and Peter King, R-N.Y.—said they would introduce companion cybersecurity legislation in the House.

On June 24, 2010, the Committee reported the legislation out by unanimous voice vote with no amendments, other than the managers’ substitute, which consisted of technical changes.

Meanwhile, Senators Lieberman, Collins, and Carper launched an aggressive campaign on behalf of the bill, initially to counteract an erroneous report by CNET, which said the bill called for an Internet “kill switch.” On June 23, 2010, the Committee issued a “*Myth v. Reality*” document about the bill. On July 1, the Senators announced support from Microsoft Corp. and others for the legislation. On July 2, they responded, in a strongly written letter to Cisco, IBM, and Oracle, to unfounded criticisms of the bill. On July 9, the Senators outlined numerous ways in which the bill would strengthen privacy rights and civil liberties. On July 12, they an-

nounced support for the legislation from a technology advocacy group, Online Trust Alliance. And on July 16, they announced support from the software firm SAP.

Throughout the month of July, staff negotiated with Commerce Committee staff to merge the Lieberman-Collins-Carper bill with a bill by Senators Jay Rockefeller, D-W.Va., and Olympia Snowe, R-Me. The merged bill was then sent to Senator Reid for input from other relevant committees of jurisdiction, such as the Intelligence Committee and the Judiciary Committee.

2. ELECTRIC GRID SECURITY

On April 30, 2009, Chairman Lieberman introduced legislation to increase the security of the electric grid. The Critical Electric Infrastructure Protection Act, S. 946, would help reduce the susceptibility of the electric grid to cyber attack by giving the Federal Energy Regulatory Commission additional authority to develop a fix to vulnerabilities detected and reported by DHS.

3. GOOGLE SECURITY BREACH

On January 13, 2010, Chairman Lieberman said that Google had “provided an enormous services to Internet users” by announcing that the Gmail accounts of Chinese dissidents were breached from inside China and that 20 other companies also were attacked. “As a nation, and as individuals, we are vulnerable to cyber attack from hackers, predators, foreign competitors, and terrorists who would compromise, steal, or cripple our cyber systems and the information that courses through them. Educating Internet users of these threats and vulnerabilities is key to thwarting such attacks.”

4. DECLASSIFICATION OF CYBERSECURITY PLANS

On March 3, 2010, the Chairman praised the Administration for announcing it would declassify portions of the Comprehensive National Cybersecurity Initiative (CNCI), a multi-agency, 12-step plan primarily focused on securing the Federal Government’s cybersecurity networks and systems. In 2008, the Chairman had asked that more information about the initiative be made public to help Congress and the public better understand it.

E. BIOSECURITY

1. H1N1 INFLUENZA PANDEMIC RESPONSE

The Federal response to the H1N1 virus in 2009 tested DHS’s ability to contain a biological emergency—albeit an emergency for which there was forewarning. DHS met the test well in the early stages of the virus but failed to deliver enough vaccine in time to prevent the worst of the outbreak. The failure was primarily due to outdated vaccine manufacturing technology and overreliance on foreign vaccine suppliers.

On April 29, 2009—within days of reports of a new influenza outbreak in Mexico and Southern United States—the Committee held its first of four hearings to examine the Federal response to the emergence and spread of the H1N1 influenza. “The Federal response . . . has been strong and reassuring,” the Chairman said. “But we are in the midst of a grave public health emergency whose

course is not clear. We must remain on alert, take all possible preventative actions, and prepare for an escalation of the outbreak.”

Those words turned out to be prophetic. As spring turned to summer and summer turned to autumn, the pre-flu season began to see the reemergence of H1N1 and an escalation of cases. Eventually, world health officials declared a pandemic.

By the end of September, over 1 million people had become sick with H1N1 and the flu season had not begun yet. In Connecticut, 2,000 cases had been identified and nine people had died. The Chairman called a field hearing September 21, 2009, in Hartford, Conn., to examine preparations being taken by State public and private health officials to combat H1N1. The Chairman concluded “the State appears to be on track to stay out in front of a broad H1N1 outbreak.”

A month later, on October 21, 2009, when the Committee held its third hearing with witnesses from DHS and the Departments of Health and Human Services (HHS) and Education, the mood was less sanguine. HHS Secretary Kathleen Sebelius reassured the Committee that the H1N1 vaccine developed over the summer was safe for children and adults. And while 120-160 million vaccines had been promised by the end of October, Secretary Sebelius said that a glitch in manufacturing meant that 28-30 million doses would be available by the end of October and 40 million doses would be available in early November. “There is a significant amount of impatience, restlessness, and just plain anxiety out there about the government’s ability to deal with this public health crisis,” the Chairman said. “. . . I am concerned that the flu is spreading so rapidly and with such intensity, that it may be getting ahead of the public health system’s ability to prevent and respond effectively to it.”

The next week, on October 27, 2009, the Chairman and Senator Collins wrote to HHS Secretary Sebelius questioning the Department’s vaccine distribution plans, asking why HHS did not implement a plan based on who needed the vaccine most. “We are . . . concerned that HHS lacks the visibility into the production process of vaccine manufacturers, domestic and foreign, to provide more accurate and timely information of such a critical public health asset.”

Three days later, on October 30, 2009, Secretary Sebelius told the Chairman an additional 100,000 doses of the H1N1 vaccine would be available in Connecticut within days. She also said she had dispatched aides to a foreign vaccine manufacturer to determine why production had fallen behind expectations. “I share the frustration of the people in Connecticut and across the country who have been unable to get an H1N1 vaccine for themselves or their children, even though they are at high risk for contracting the disease,” Senator Lieberman said.

On November 16, 2009, the Chairman and Senator Collins wrote again to Secretary Sebelius saying they were dissatisfied with her response to their previous letter about vaccine distribution plans that were not transparent in their implementation or clearly focused on those most at risk. The next day, the Committee convened its fourth hearing to get an update on the H1N1 vaccine’s availability. “With so many eligible Americans still unable to get the vaccine, a good situation has turned bad,” the Chairman said. “I

worry that we are undermining confidence, generally, in the public health system, and that people most at risk are not only not getting the vaccine but have stopped trying.” The witnesses conceded to poor communications leading to mistaken expectations about vaccine availability.

The Committee pressed for faster emergency approval of intravenous antiviral medications to care for the sickest of patients in intensive care units, once clinical studies and scientific reviews had been completed.

In July 2010, when the House passed H.R. 4899, the Making Emergency Supplemental Appropriations for FY2010, it contained a provision to cut \$2 billion from the pandemic influenza and Project BioShield special reserve funds (SRF). On July 22, 2010, Chairman Lieberman and Senators Judd Gregg, R-N.H., Richard Durbin, D-Ill., and Richard Burr, R-N.C., wrote to Senate leaders, Harry Reid, D-Nev., and Mitch McConnell, R-Ky., criticizing the cut and asking that the Senate reject it. The Senate passed the supplemental spending bill with all funds for pandemic influenza and SRF intact.

The Committee continued to encourage the development of new recombinant and cell based manufacturing techniques and an expansion of domestic vaccine manufacturing plants that will shorten the time needed to deliver sufficient vaccine supplies to the Nation. The Administration has recently announced new domestic manufacturing contracts and a plan to modernize the vaccine development process.

F. WEAPONS OF MASS DESTRUCTION

The Committee’s work involving the risk of terrorist attacks using weapons of mass destruction focused both on nuclear and biological weapons.

After a 4-year Committee investigation into the Administration’s efforts to develop new technology to detect smuggled nuclear materials in cargo arriving at the Nation’s ports, DHS announced it would end development of its Advanced Spectroscopic Portal (ASP) monitors for primary cargo screening because the technology failed to live up to expectations. On March 1, 2010, Chairman Lieberman issued a statement in response to a letter he received from Dr. William Hagan, Acting Director of the Domestic Nuclear Detection Office (DNDO), which was charged with developing second generation detection technology. In his letter, Dr. Hagan told the Chairman that DNDO would still try to develop ASPs for use at secondary screening sites for cargo containers that had set off alarms in primary screening.

“The threat of nuclear terrorism cannot be ignored, which is why I’m an advocate for strategic investments to improve our defenses against the smuggling of nuclear materials into this country,” the Chairman said. “Thus it is unfortunate that 4 years have been lost on the basic DNDO mission of improving the Nation’s existing system of domestic defenses against a nuclear terrorist attack. . . . If the Department wants to make future generations of Americans safer from the threat of a nuclear terrorist attack, then it needs to start getting better results from its R&D investments.”

The Committee held its eighth hearing on the ASP program June 30, 2010. Chairman Lieberman stated that DNDO had failed to

achieve its core mission to coordinate a global nuclear detection architecture to protect the Nation from nuclear terrorism and has been slow to improve the domestic layers of defenses outside of seaports and major land ports of entry. “Five years into its existence, based on its record, it is inescapable to conclude that DNDO requires real retooling, and quickly,” Senator Lieberman said. The GAO also delivered testimony that DNDO had failed to develop a strategic plan to coordinate the work of other agencies to counter the threat of nuclear terrorism, in part because it was distracted over several years by efforts to develop the ASP. DHS has deployed nearly two thirds of the more than 2,100 radiation portals monitors identified in its deployment plan at established ports of entry and on the Northern and Southern borders. In addition, nearly 100 percent of cargo entering seaports and 100 percent of vehicle traffic on the Southern and Northern borders are scanned for nuclear material. But cargo coming into the country by rail from Canada or Mexico is not scanned, only a small percentage of international air cargo is scanned, and DNDO still has no plans to scan commercial aviation aircraft passengers or baggage.

The Chairman called a second hearing on the global nuclear detection architecture on September 15, 2009, during which GAO submitted testimony accusing DHS of “misleading” Congress on the status of the Cargo Advanced Automated Radiology Systems (CAARS) program, intended to detect shielded nuclear material smuggled through ports of entry. CAARS, like the ASP program, was eventually abandoned. Some \$400 million over 5 years was spent on CAARS and ASP.

On December 2, 2009, GAO released a report that found that large, foreign ports were unable to scan anywhere near 100 percent of freight passing through them, as Congress had required in the Security and Accountability for Every (SAFE) Port Act of 2006. GAO found that while a majority of cargo passing through low volume foreign ports was able to be scanned, no more than 5 percent of freight coming into large ports was scanned. The SAFE Port Act called for a pilot program for scanning 100 percent of cargo entering U.S. ports. The Committee’s second bill implementing the 9/11 Commission recommendations required 100 percent x-ray scanning at all foreign ports by 2012. But DHS Secretary Napolitano said that conditions had been met to extend the deadline.

The Committee’s work to secure the storage and handling of the most dangerous bio pathogens was informed by the work of the Commission on the Prevention of Weapons of Mass Destruction Proliferation and Terrorism, led by former Senators Bob Graham, D-Fla., and James Talent, R-Mo., which found that a weapons of mass destruction (WMD) terrorist attack was more likely than not to occur by 2013, and that a biological attack was more likely than a nuclear attack.

On September 8, 2009, the Chairman and Senator Collins introduced S. 1649, the Weapons of Mass Destruction and Preparedness Act of 2009 which would have implemented many of the 9/11 Commission’s recommendations. The bill contained measures to improve the security of laboratories working with the most dangerous pathogens and to increase the Nation’s preparedness and response capabilities to WMD terrorist attacks.

The Committee held a hearing September 22, 2009, to discuss the bill. Senators Graham and Talent were called as witnesses and told the Committee that bio labs using dangerous pathogens do not have adequate protections in place to prevent the theft of those pathogens for use by terrorists in a WMD attack.

“Anyone who thinks we are being overly zealous, imagining threats that don’t really exist, should look to the arrest this week of two men in the United States, who apparently were directly tied to al-Qaeda and who apparently were planning an attack in the New York area,” Chairman Lieberman said. “Terrorists want to do us great harm and they know that a biological weapon could devastate American society.”

The WMD Prevention and Preparedness Act charted a multi-layered approach—across the full spectrum of prevention, preparedness, and response—to the biological threat. Among other provisions, it would have improved biosecurity by identifying the most dangerous pathogens and requiring DHS to develop security standards for labs that handle those pathogens, including risk assessments, personnel reliability programs, and physical security. The bill also would have supported a National Bioforensics Analysis Center to identify the perpetrator of a WMD attack rapidly, and it would have required communications plans to convey instructions to the public—including whether to evacuate or shelter in place.

On November 4, 2009, the Committee approved the legislation as amended by a manager’s substitute but action on the measure stalled due to a lack of attention from the Health, Education, Labor and Pensions Committee, which had some jurisdiction over the bill.

Since the Committee reported the bill, the Administration has taken steps that correspond to provisions in the legislation, including promulgating an Executive Order to increase laboratory security for dangerous pathogens, enhancing forensic capabilities for biological materials, and expanding the U.S. Postal Service pilot program to deliver antibiotics during a bioterrorism attack.

G. BORDER AND TRAVEL SECURITY

1. MEXICAN BORDER VIOLENCE

The horrific violence just south of the Southern border caused by Mexican drug and human trafficking cartels impelled the Committee to hold a series of hearings in the 111th Congress on the state of U.S. border security and the potential for violence would spill over into U.S. territory. The first hearing was held March 25, 2009, the day after the Obama Administration announced a major initiative to combat the cartels that would eventually see two cabinet secretaries and the President himself travel to Mexico to meet with President Felipe Calderon. Chairman Lieberman announced at the hearing that he would work with his colleagues to increase the number of Customs and Border Protection (CBP) officers and Immigration and Customs Enforcement (ICE) investigators to step up investigations and enforcement actions, and to improve coordination of the various Federal agencies working at the Southern border.

Six days later, on March 31, 2009, the Chairman and Senator Collins announced they would offer an amendment to the FY2010 Budget Resolution to bolster U.S. efforts to fight violence along the

border. The amendment called for an additional \$550 million for Federal agents, investigators, and resources to stem the flow of drugs smuggled north and money and guns smuggled south. “The Mexican Drug cartels are a clear and present danger to the United States that compels us to provide our Federal law enforcement agencies with additional funding,” the Chairman said.

On April 1, 2009, the Senate adopted a Lieberman-Collins amendment to provide \$130 million to ICE for 350 investigators; \$20 million for DHS to improve tactical communications for CBP and ICE; \$20 million for CBP to modernize its database to identify potential criminals at ports of entry; \$50 million for Alcohol, Tobacco and Firearms Agency to hire an additional 150 investigators and 50 inspectors; \$10 million for local law enforcement; \$20 million for the Human Smuggling and Trafficking Center at DHS; \$10 million for DHS’s Office of International Affairs; and \$30 million to reimburse State and local law enforcement for their participation in border actions.

On April 20, 2009, the Committee held its second hearing on border security in the field, in Phoenix, Ariz. The Chairman reiterated his call for additional resources to counter the Mexican cartels. “DHS is redeploying resources to the border to step up the detection of firearms and cash bound for Mexico and drugs and undocumented aliens bound for the United States,” Chairman Lieberman said. “I am determined to expand the resources available to DHS, the Departments of Justice and State, and local law enforcement agencies in the border region to take on the cartels in the most forceful way we can.”

The Chairman also announced plans to push for legislation to give Federal officials authority to investigate and confiscate stored value cards, which can hold tens of thousands of dollars, and are increasingly being used by cartels to smuggle money earned from the illegal drug sales in the United States back into Mexico. The cards do not have to be declared at the border and border officials have little authority to police them.

The Chairman wrote to the leaders of the Appropriations Committee on April 29, 2009, outlining his views on border security funding needs and proposing an additional \$275 million be added to the emergency supplemental spending bill wending its way through Congress.

On July 24, 2009, Border Patrol Agent Robert Rosas was murdered at the border. The Chairman conveyed his condolences and added that the agent’s death was a “grim reminder of the dangers” border agents face every day. “They are on the front lines, just as our troops are fighting abroad, and they deserve our appreciation and our support.”

The Committee held its third hearing on border security on April 20, 2010—examining the troubled SBInet program—a network of cameras and sensors that was intended to stretch across 2,000 miles of the Southern border to help secure the Southwest border. After 5 years and a direct cost of \$770 million to taxpayers, the cameras and sensors now cover just a 23-mile test area. “By any measure, SBInet has been a failure,” Chairman Lieberman said, “A classic example of a program that was grossly oversold and has badly under-delivered . . . it should be brought to the point where it works or we should scrap it.”

Shortly before the hearing, DHS Secretary Janet Napolitano announced a funding freeze for SBInet pending an internal review of the program and of other alternative technologies.

At the hearing, the Chairman also announced his support for sending National Guard troops to the Southern border on a temporary basis. The violence on the Southern border, the Chairman said, “is a homeland security problem.” When the Guards were deployed to the border at the end of May, the Chairman issued a statement in support of the President’s decision.

2. TERRORIST TRAVEL

SECURE IDENTIFICATION

On July 15, 2009, the Committee held a hearing on the problems of creating secure identification for American travelers, one of the recommendations of the 9/11 Commission report. The REAL ID Act of 2005 contained so many onerous mandates that States were unable or unwilling to comply by the law’s stated deadlines. The Providing for Additional Security in States’ Identification (PASS ID) Act of 2009, S. 1261, was intended to help States achieve the goals of creating national identification security standards. “We cannot ignore the fact that legislatures of 13 States have passed laws prohibiting their States from complying with REAL ID as it presently stands,” the Chairman said. “We must work with States to help them create secure identification documents while still protecting privacy concerns and ensuring that States can comply.” The PASS Act was marked up and ordered reported out of Committee on July 29, 2009.

ELECTRONIC TRAVEL AUTHORIZATION

The Committee’s oversight of border security also included monitoring the Electronic System of Travel Authorization (ESTA), which was intended to track terrorists attempting to enter the United States from visa waiver countries. On January 13, 2009, Chairman Lieberman chastised DHS for trying to expand the number of countries whose citizens may enter the United States without a visa when the system was not yet doing what it was supposed to do for those 35 countries already in the program.

TRAVELER ENFORCEMENT COMPLIANCE SYSTEM

On March 23, 2010, Chairman Lieberman and Senator Collins pressed DHS Secretary Janet Napolitano on TECS modernization efforts. In a letter to the Secretary, the Senators pointed out that TECS is “the backbone for recording, managing, and maintaining law enforcement actions taken by Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE). TECS is a critical component of our government’s efforts to stop terrorists from traveling. . . . Expanded far beyond its original scope, TECS is in critical need of modernization.” The Senators asked for answers to six key questions.

TSA/U.S. MARSHALS

On December 8, 2009, the media reported that Transportation Security Administration (TSA) managers had posted TSA’s Stand-

ard Operating Procedure Manual on the Internet. Chairman Lieberman issued a rebuke, saying the posting of the manual “is an embarrassing mistake that calls into question the judgment of agency managers. A security document, redacted or not, is not the type of document we want to share with the world. That it was incompetently redacted only compounds the error. TSA must swiftly complete its investigation into this incident, institute better controls over what it posts online, and strengthen its security procedures to make sure this incident has not compromised the Nation’s aviations security.”

On August 19, 2010, the Chairman, Senator Collins, and four other senators sent a letter to U.S. Marshals Service Director John Clark asking for a full explanation of why the Service had been storing images produced from whole body scanning machines taken at a U.S. Courthouse in Orlando, Fla., from February through July 2010. In addition, they asked the Service to identify other locations where scans may have been stored from other whole body imaging technology.

AIR CARGO

On November 16, 2010, The Committee held a hearing titled “Closing the Gaps in Air Cargo Security,” to determine Homeland Security officials’ ability to secure air cargo adequately in the aftermath of a shipment of explosive materials from Yemen aboard cargo and passenger airplanes bound for the United States.

Chairman Lieberman pressed the witnesses to obtain identifying information for air cargo bound for the United States early in the shipping process so that DHS can target high-risk cargo more effectively. The Chairman voiced support for the Transportation Security Administration’s (TSA) use of Advanced Imaging Technology (AIT) and body pat downs on air passengers. TSA’s failure to explain the need for these new procedures to the traveling public, the Senator suggested, may have led to a recent outcry about their intrusiveness.

“Shoe bombers. Liquid bombers. Underwear bombers. Again and again and again, terrorists have been seeking ways to blow up an airplane,” Senator Lieberman said. “In the most recent attempt, terrorists hid bombs inside the toner cartridges of printers and sent them to the United States as air cargo. . . . We need to anticipate the terrorists’ next move, not just react to the last one.”

On the new passenger security practices, the Chairman said, “Unfortunately, these are the times in which we live. We have to do everything we can to protect the traveling public. What you are doing with Advanced Imaging Technology and the pat down is very difficult but it is necessary for the security of the American public.”

H. EMERGENCY PREPAREDNESS AND RESPONSE

1. FEMA

Following passage of the Post-Katrina Emergency Management Reform Act of 2006 to restructure the Federal Emergency Management Agency (FEMA) so that for the first time it would be prepared for not just a disaster, but a catastrophe, Senator Lieberman

engaged in close oversight of the agency to ensure the Post-Katrina Act was implemented.

First and foremost, the Post-Katrina Act kept FEMA in DHS where it was core to the Department's disaster response and recovery efforts. Nevertheless, a contingent nostalgic for the Clinton era FEMA under James Lee Witt sought to strip the agency from DHS and restore its independence, which ended in 2003 when it was folded into DHS. On February 17, 2009, the Chairman welcomed support for keeping FEMA in DHS when a new DHS Inspector General report concluded that FEMA should remain where it is. Chairman Lieberman also announced that eight groups representing more than 1.7 million first responders supported keeping FEMA in DHS. On April 22, 2009, during the HSGAC confirmation hearing for FEMA Administrator, nominee Craig Fugate agreed FEMA should stay within DHS. Finally, on May 13, 2009, the Chairman thanked President Obama for voicing his opinion that FEMA should remain in DHS, putting to rest once and for all the questions and debates about the agency's placement (even though DHS Secretary Napolitano had announced previously that the Administration had no plans to strip FEMA out of DHS.)

On March 17, 2009, the Chairman laid out his DHS budget priorities in his annual letter to the Chairman and the Ranking Member of the Budget Committee, advocating that funding for homeland security grants be maintained at levels no lower than FY2009. The Senator said FEMA's budget should be increased by \$125 million over FY2009 appropriated levels, Congress should authorize \$220 million in FY2010 for the Pre-Disaster Mitigation Grant Program, and funding should be increased substantially for the Emergency Food and Shelter program given the recession that was gripping the country.

When President Obama released his FY2010 budget on May 7, 2009, Chairman Lieberman criticized the flat funding for FEMA's operations budget as counterproductive to FEMA's steady transformation into an agency capable of responding to catastrophes.

On May 20, 2009, Chairman Lieberman wrote to the Chairman and Ranking Member of the Appropriations Homeland Security Subcommittee to make the case for increased funding for FEMA so it could continue its transformation into an agency capable of responding to a catastrophe.

On July 20, 2009, Chairman Lieberman and Senator Mary Landrieu, D-La., announced the release of four new GAO reports they had requested detailing problems with Post-Katrina recovery efforts. Among the problems: Slow distribution of Federal funds, barriers to receiving adequate health care, and poorly coordinated case management programs. "We must continue to fight for more effective programs to help those in need," the Chairman said. Staff, meanwhile, was working on draft legislation to improve disaster recovery programs and the administration of both disaster response and recovery operations.

On July 23, 2009, the Chairman said he was heartened to learn from a new GAO report that FEMA had significantly improved its fraud prevention controls, which were a central element of the Post-Katrina Act. The Chairman and four other HSGAC Members responded that same day to a DHS Inspector General report that FEMA did not respond quickly or effectively to problems caused by

potentially elevated levels of formaldehyde in trailers housing survivors of Hurricanes Katrina and Rita. In a letter to Administrator Fugate, the Senators criticized FEMA for its initial failure to act, recognized that FEMA had made improvements since the time period covered by the report, asked FEMA to quickly implement the report's recommendations, and asked for further information.

On August 29, 2009, the Chairman and Senator Collins wrote to Administrator Fugate on the fourth anniversary of Hurricane Katrina to ask him to continue moving FEMA forward to ensure that our Nation is capable of helping survivors recover from disasters.

But days later, Chairman Lieberman criticized FEMA for failing to have a proper housing strategy in response to a GAO report requested by Senators Lieberman and Landrieu and made public September 5, 2009. The report found that the lack of affordable rental housing has been a major challenge facing survivors of Hurricanes Katrina and Rita and that a vital component of disaster recovery must be repair of damaged rental properties. Lieberman said the Nation must be prepared to provide more rental housing in the future.

On November 5, 2009, in response to a House Committee vote supporting stripping FEMA out of DHS, Chairman Lieberman said, "FEMA is exactly where it belongs . . . at the center of the Department of Homeland Security where it plays a critical role in helping to protect Americans where they live and work from both natural and man-made disasters."

"Today FEMA is busy building itself into a stronger, more accountable agency than it was in 2005, with a renewed sense of mission, greater stature, and more resources. Rather than splintering apart agencies that work together well, the President and Secretary Napolitano wisely chose to allow FEMA to rebuild itself into a world class disaster preparedness and response agency."

The second year of the 111th Congress began with negative critiques of FEMA's disaster recovery capabilities. On March 1, 2010, Chairman Lieberman, Senator Collins, Disaster Recovery Subcommittee Chairwoman Mary Landrieu, and Senator Lindsey Graham joined in a letter to Secretary Napolitano complaining that the agency's disaster recovery plan had many gaps. The purpose of the Disaster Recovery Framework is to provide guidance to communities on how the Federal Government will help them with disaster recovery. Among the problems in the plan were ambiguities about leadership roles, authorities and responsibilities; undefined and vague recovery support functions meant to bring agencies together to focus on recovery; and a lack of emphasis on mitigation and the voluntary private sector preparedness certification program.

The following month, on April 14, 2010, the Government Accountability Office (GAO) released a report urging improvements in FEMA's Long-Term Community Recovery program, designed to help communities recovery from disasters. "Clearly serious problems are impeding FEMA's ability to help communities recover from disasters," the Chairman said. "These issues need to be addressed, and I am hopeful that the National Disaster Recovery Framework, which the Administration is working on, will do just that. I am encouraged that FEMA has agreed with GAO's recommendations to improve this vital tool in helping communities re-

cover and rebuild, and I look forward to working with them to make that a reality.”

Later that month, Chairman Lieberman and Senator Collins introduced legislation to authorize an effective, competitive pre-disaster mitigation grants program. The reauthorization bill, introduced on April 22, 2010, codified the program that had been surviving on annual appropriations through DHS since 2008. “The benefits of working to alleviate damage before it happens cannot be disputed,” the Chairman said. “If communities are prepared for disasters and have taken measures to lessen their impact, those communities will survive disasters with greater resiliency. This program is a tried-and-true way to save lives, prevent damage, and reduce post-disaster costs.” The measure passed the Senate 2 months later on June 29, 2010.

The Deepwater Horizon oil drilling rig exploded in spectacular fashion on April 20, 2010, killing 11 people. Because the disaster was so enormous, the Federal Government was called on to step in, and its response capabilities were tested in real-time. The Coast Guard was essential to the recovery effort. A month later, on May 18, Chairman Lieberman called a hearing to examine any plans in place to deal with a major oil spill. He concluded that neither BP nor the Federal Government were prepared and he called for a hold on future leases for deep water drilling until better response plans could be developed. “As far as I can tell, BP’s response plans, filed and approved by the Federal Government, don’t effectively deal with the enormous accumulation of oil under water now in the Gulf. And perhaps most important, in the approved BP response plans, there appears to be total reliance on the blowout preventer, and no plans filed for what to do to control and stop a spill if a blowout preventer fails in deep water, as it did in the current case.”

The oil spill also provided Senator Lieberman with an opportunity to promote the private sector preparedness program that he had authored in the Post-Katrina Emergency Management Act, approved by Congress in 2006. In a letter to DHS Secretary Janet Napolitano dated June 3, 2010, Senator Lieberman and House Homeland Security Committee Chairman Benny Thompson complained that implementation was far behind schedule. “Preparedness is a necessity not a luxury,” they wrote.

Ten days later, on June 15, 2010, the Senators praised the Department for moving forward to engage the private sector in preparedness for its own property and assets. “Time and again, the value of being prepared for catastrophe reaps dividends in fewer lives lost and a quicker return to business,” Senator Lieberman said. “All of us share a responsibility for being prepared, and the more we are prepared the more resilient we will be in recovering from a catastrophe. Given that the private sector owns 85 percent of our critical infrastructure—communications, energy, and financial networks, for example—the private sector needs to contribute to the preparedness effort.”

August 29, 2010, marked the fifth anniversary of Hurricane Katrina’s landfall. The Chairman observed the anniversary by releasing a new GAO report on the Federal Government’s recovery efforts along the Gulf coast. “Five years after Hurricanes Katrina and Rita, too many families along the Gulf Coast are still strug-

gling to recover,” Lieberman said. “FEMA has made tremendous progress since 2005 and is evolving into a competent, professional emergency management organization.”

But, he added, “FEMA must improve its preparedness to assist in future recoveries after a large scale disaster. . . . The simple fact is that the distress that continues to plague many displaced Gulf Coast families—from causes both natural and man-made—spotlights the imperative to have world-class recovery systems in place so that government, on all levels, as well as individual citizens, are ready to help their communities recover from catastrophic disaster.”

2. FIGHTING FOR FIRST RESPONDERS

In the 111th Congress, performance standards were finally instituted for the homeland security grants program. Introduced in the House by Representative Henry Cuellar, the Redundancy Elimination and Enhanced Performance for Preparedness Grants Act, H.R. 3980, required FEMA to develop and implement performance measures for homeland security grants, as well as identify and eliminate redundant reporting requirements imposed on State and local recipients of those grants. The measure called for FEMA to develop and submit to Congress action plans and timetables within 90 days and to report periodically thereafter to Congress on its progress. The bill further required FEMA to work with the National Academy of Public Administration on the development of grants performance measures. The bill was reported out of the Committee on April 28, 2010, and passed by Congress September, 28, 2010.

On August 2, 2009, the Chairman introduced a substitute for the First Responder Anti-Terrorism Training Resources Act, H.R. 3978, which then passed out of Committee. The bill allowed the Secretary of Homeland Security to accept donations that strengthen FEMA’s preparedness for and response to terrorism. The bill gave the DHS Secretary authority to accept donations, both of property and services, for activities of FEMA’s Center for Domestic Preparedness (CDP) that are related to preparedness for and response to terrorism. CDP currently lacks the authority to accept gifts and consequently has had to turn down donations such as used buses and subway cars that could be used for training. The bill was approved by the Senate on August 5, 2009, and by Congress on September 15, 2009.

On April 27, 2010, the Chairman joined with Senators Christopher Dodd, Tom Carper, Susan Collins, and John McCain to introduce the Fire Grants Authorization Act, H.R. 3791. The bipartisan bill would reauthorize the Assistance to Firefighters Grant (AFG), the Staffing for Adequate Fire and Emergency Response Grant (SAFER), and the Fire Prevention and Safety Grant (FP&S). These grants provide critical help to localities to buy necessary safety and prevention equipment and to hire additional staff.

The Committee reported out the bill the following day.

“Since September 11 and the Hurricane Katrina catastrophe, firefighters in communities, large and small, have assumed a greater role in emergency preparedness,” the Chairman said. “More than ever towns and cities need the ability to hire additional firefighters, purchase new equipment, and initiate education and training pro-

grams, all of which is critical to ensuring they can safely perform their dangerous jobs.”

3. D-BLOCK SPECTRUM LEGISLATION

On July 21, 2010, Chairman Lieberman and Senator John McCain, R-Ariz., demonstrated their commitment to helping first responders by introducing legislation that would provide them with more broadband spectrum to help them build a 21st Century interoperable communications network. The First Responders Protection Act of 2010 would have given the public safety community the 700 MHz D-Block spectrum and provide \$5.5 billion from the auction of a different block of spectrum to support the construction of towers, transmission facilities, and equipment for the new public safety network. Another \$5.5 billion in auction proceeds would go to cover recurring maintenance and operational costs. The legislation was referred to the Commerce Committee where no action was taken.

4. DEEPWATER HORIZON OIL SPILL

On May 17, 2010, the Committee held a hearing titled “Gulf Coast Catastrophe: Assessing the Nation’s Response to the Deepwater Horizon Oil Spill.” Unlike other hearings that were held, which focused largely on the cause of the spill, the Committee focused primarily on the public and private sector preparedness for and response to the spill. The Committee subsequently sent a letter to Senator Harry Reid (which he had requested) listing recommendations for addressing the spill and reducing the risks from a similar spill in the future.

5. CHEMICAL SECURITY

Efforts continued to strengthen the Federal Government’s security of hundreds of chemical sites around the country and to chart a path forward to reduce the risk of widespread casualties should a site be attacked by terrorists. The Chemical Facilities Anti-Terrorism Standards (CFATS) guides oversight of chemical plants but its authorization was due to expire in 2010. The Committee held a hearing March 3, 2010, to assess the prospects for more permanence for the security program.

In his opening statement at the hearing, the Chairman observed: “Although there was intense controversy over whether to begin a chemical security program at all—because of opposition to government regulation in this area—there now seems to be general agreement that CFATS is making a positive contribution to our national and homeland security and should be continued. So the question becomes: Should we improve it and if so how can we improve it as we extend it?”

At a Committee markup on July 28, 2010, of Senator Collins’ chemical security legislation, H.R. 2868, Senator Lieberman expressed his disappointment that the Committee could “do better” and include waste water facilities and chemical plants in port areas under CFATS, and include “inherently safer technologies” in chemical security legislation. The measure passed out of Committee on a 13-0 vote, with the Chairman voting aye. The legislation was not

considered on the Senate floor, and the CFATS program was extended for another year.

6. RED CROSS

On September 28, 2010, the Chairman announced final passage of legislation he had introduced the year before—which was passed by the Senate on May 24, 2010, and the House on September 15, 2010—to help the Red Cross, other disaster relief agencies, State, and local governments obtain goods and services for disaster victims. The Federal Supply Schedules Usage Act of 2010, S. 2868, will allow the Red Cross to purchase goods and services from the General Services Administration (GSA), which negotiates contracts far in advance of a disaster and typically gets a better price than relief agencies or State and local governments. The bill was signed into law on October 8, 2010.

I. FEDERAL BUILDING SECURITY

The Federal Protective Service (FPS), an agency within the Department of Homeland Security, is responsible for protecting more than 9,000 Federal buildings around the country—most of them outside of Washington, DC—and the employees and citizens who work within or visit those buildings. After it was absorbed into DHS in 2003, the agency deteriorated, and eventually poor management and budget shortfalls were threatening the agency's mission. To try to correct the problems, Chairman Lieberman, Senators Collins, Akaka, and Voinovich, asked the GAO in 2007 to investigate the agency. In response to the request, GAO released four reports—the first on June 11, 2008. On April 13, 2009, GAO issued its second report, detailing the poor training of FPS's contract guards, poor oversight of guard certification requirements, and failure by contract guards to comply with relevant rules and regulations.

Later in 2009, on July 8, the Committee held a hearing on a third report—which was to be issued formally in April 2010. That final report revealed security at Federal buildings so lax that GAO investigators were able to smuggle bomb-making materials through security, construct bombs in restrooms, and walk about the building undetected. Chairman Lieberman and Senator Collins announced that they would draft FPS reform legislation. "As we approach the eighth anniversary of 9/11, and some 14 years after the bombing at the Federal building in Oklahoma City," the Chairman said, "it is outrageously unacceptable that the Federal employees working within these buildings and the citizens who pass through them are still so utterly exposed to potential attack by terrorists or other violent people."

GAO's fourth report, issued August 5, 2010, found that FPS did not adequately train its contract guards and that no one is accountable for decisions made at individual building that FPS protects.

The GAO's latest report on the Federal Protective Service makes it clear that this agency is in "dire need of reform," the Chairman said.

The following month, on September 20, 2010, the Chairman and Senator Collins called FPS a dysfunctional agency and introduced the Supporting Employee Competency and Updating Readiness En-

hancements for Facilities (SECURE) Act of 2010 (S. 3806). A manager's substitute to the bill was marked up and ordered reported out of Committee on September 29, 2010. Among other things, the measure would ensure that FPS has sufficient personnel to carry out its mission; require FPS to maintain testing programs to assess guard training and to establish procedures for retraining or terminating ineffective guards; and ensure FPS is prepared to address the threat of explosives.

J. INTERNAL DHS MATTERS

1. BUDGET

Every year, the Chairman sends a letter to the Chairmen and Ranking Members of the Senate Budget and Appropriations Committees with broad recommendations for DHS's budget that year. By March 17, 2009, when the Chairman sent his letter to the Budget Committee, the Administration had only released a general outline for DHS's budget in Fiscal Year 2010, rather than detailed justifications, so the letter described priorities broadly—including robust budgets for cybersecurity, FEMA, and homeland security grants.

When the complete Fiscal Year 2010 budget request was made public on May 7, 2009, the Chairman was satisfied with its 6 percent increase for homeland security spending, including increases for border security and cybersecurity. He noted with disappointment the flat budget for FEMA and cuts in homeland security grants programs. The Chairman made his disappointment known at a hearing May 12, 2009, with Secretary Napolitano as the sole witness. On May 20, 2009, he sent a similar letter to the Appropriations Committee.

For Fiscal Year 2011, the Chairman again sent his annual letter to the Budget Committee, on February 24, 2010, noting the tough economic climate and the need to make hard budget choices. He recommended small increases for aviation security and for management programs to improve the operations of the Department. The Administration's 2011 homeland security budget increase was even more modest than the previous year, just under 3 percent. Senator Lieberman sent his annual letter to the Appropriations Committee on March 25, 2010.

2. HIGH-RISK LIST

In 2009, the Department of Homeland Security was one of 30 agencies, departments, or programs placed on the GAO's biennial list of Federal agencies most at risk of waste, fraud, abuse, mismanagement, or in need of reform. DHS, established in 2003, made the list in 2007 as well. The Chairman said the placement was "distressing but not unexpected."

"Because of the Department of Homeland Security's essential mission to keep the American people safe, GAO's listing of the entire Department, once again, is distressing but not unexpected," Lieberman said. "We are acutely aware of the Department's progress, as well as its shortcomings, and we have put its continued improvement at the top of our to-do list."

3. FUNDING FOR A CONSOLIDATED DHS HEADQUARTERS

On January 8, 2009, the National Capital Planning Commission (NCPC) approved a master plan for a consolidated DHS headquarters at the St. Elizabeths Hospital Campus in Southeast Washington. The Chairman weighed in, saying, “A unified headquarters, which would bring together many of the Department’s components into a single facility and allow employees to work more efficiently and interactively is a critical cornerstone of the efforts to improve management at the Department of Homeland Security.”

K. QUADRENNIAL HOMELAND SECURITY REVIEW

The Chairman and Senator Collins held a hearing July 21, 2010, to examine DHS’s long range strategic plans, known as the Quadrennial Homeland Security Review (QHSR) and the Bottom Up Review (BUR). The Chairman told DHS Deputy Secretary Jane Holl Lute that the plans, while helpful in setting the Department’s top priorities, were not specific enough. “These documents provide a broad narrative of the Department’s key missions and its goals for improving those missions, although the narrative is too broad and the goals too vague,” Chairman Lieberman said. “There has been a lot of growth in homeland security since 9/11 and it’s happened quickly . . . but we can’t just let the machine operate without control from the Executive Branch and oversight from the Legislative Branch.”

CONTRACTING REFORM

A. DEFENSE CONTRACT AUDIT AGENCY

Through hearings, oversight, and an investigation conducted by GAO at the Committee’s request, the Chairman was instrumental in spurring a change of leadership at the top of the Defense Contract Audit Agency (DCAA) and a major reform effort within the agency, which is responsible for auditing approximately \$500 billion dollars of contractor costs per year. On September 23, 2009, The Chairman and Senator Collins held a hearing to determine who within the agency was responsible for reform. GAO released a report requested by Senators Lieberman, Collins, and McCaskill, which found a number of ongoing problems at DCAA. The report was the fifth in recent years to report problems with the agency’s success in meeting its own auditing standards.

“The Committee has run out of patience,” the Chairman told Defense officials. “Too much is on the line and the time for incremental change is over. Each and every audit that GAO reviewed failed to meet auditing standards. That is not an aberration or a case of a few employees not knowing what to do. That indicates systemic issues within the agency. . . . We need to identify the root causes (of problems) and get on to the solutions that the taxpayers demand and certainly deserve.”

Because the Committee exposed major mismanagement and widespread auditing deficiencies within the agency, DCAA is reforming its audit approach, metrics, and human capital practices, and has begun the process of removing personnel who have abused the taxpayers’ trust.

HSGAC is committed to continued oversight of DCAA in order to address systemic problems at the agency and institute meaningful reform and will continue to have quarterly meetings with the new Director of DCAA to oversee the progress of new initiatives to improve the culture of the agency. Turning DCAA around will protect billions of taxpayer dollars from waste, fraud, and abuse.

B. REDUCING RELIANCE ON GOVERNMENT CONTRACTORS

The Committee worked with the Administration to oversee the implementation of contracting reforms expected to save billions of taxpayer dollars and with the Office of Federal Procurement Policy as they issued draft guidance to ensure that inherently governmental functions are carried out by government employees.

On July 29, 2009, the Office of Management and Budget (OMB) issued new guidelines on contracting procedures—specifically on improving acquisition, managing the multi-sector workforce, and expanding contractor performance information. The Chairman said the guidelines “draw welcome attention to the need for robust human capital planning. Contractors can—and should—provide the government with valuable expertise and services, but at the same time, we must ensure that each agency has the in-house skills necessary to maintain control of its mission and operations.”

As part of its routine oversight of DHS contracting, Committee staff learned at a briefing that far more contractors were employed at DHS than anyone expected. In a strongly-worded letter to DHS Secretary Napolitano dated February 23, 2010, the Chairman and Senator Collins expressed shock to learn that DHS not only relies too heavily on contractors but that half of its workforce is made up of contractors. “The sheer number of DHS contractors currently on board again raises the question of whether DHS itself is in charge of its programs and policies or whether it inappropriately has ceded core decisions to contractors.”

The Senators asked for a unit by unit breakdown of where the contractors work and assurances that contractors are not performing “inherently governmental work” and other core functions.

C. SPECIAL INSPECTOR GENERAL FOR IRAQ RECONSTRUCTION

The Chairman commented October 30, 2009, on the latest report from the Special Inspector General for Iraq Reconstruction (SIGIR), which showed that the contractor hired by the Federal Government to provide support to the Iraqi Army could not support 14 percent of costs examined by the SIGIR. In one instance, the contractor charged the government \$196 for bags of washers that should have cost \$1.22 each. SIGIR identified \$4 million in potential overbillings. The Chairman said “Despite volumes of audits and investigations identifying the waste and fraud that flows from weak Department of Defense contract oversight, the Department still doesn’t have the personnel or procedures in place to hold contractors accountable.”

The SIGIR produced another report on the Department of State’s oversight of a \$2.5 billion DynCorp contract for support of the Iraqi police training program. The report found repeated oversight weaknesses and untold amounts of wasted taxpayer dollars. “The State Department appears to be sleepwalking through its oversight obli-

gations,” Senator Lieberman said. “It has known for years” about the weak and sloppy oversight of the contract and has “repeatedly committed to beef up” oversight staffing. “Yet, we still seem to be at the starting point. . . . It is inexplicable that this has not been done yet.”

D. NEW SUBCOMMITTEE

The issue of Federal contracting—which costs taxpayers over \$500 billion a year, was so ripe for additional oversight that Chairman Lieberman announced on January 29, 2009, he was establishing a new Ad Hoc Subcommittee called Ad Hoc Subcommittee on Contracting Oversight for that purpose. Senator McCaskill was named to Chair the Subcommittee. For years, the GAO has put Federal contracting on its list of agencies, departments, or programs at risk for waste, fraud, abuse, mismanagement, or in need of reform. “Management of Federal Contracts is one of the greatest operational challenges facing the Federal Government,” the Chairman said. “Spending on Federal contracts rose to an astounding \$535 billion last year. . . . This is a problem that needs as much oversight as we can muster.”

AMERICAN RECOVERY AND REINVESTMENT ACT

Early in the new Congress, the Committee began extensive oversight of the \$787 billion American Recovery and Reinvestment Act (ARRA), also known as the stimulus package, enacted in February 2009 to jumpstart the weakening economy by creating jobs and stimulating consumer spending.

Given that \$499 billion would be spent directly on programs and projects (the remaining \$288 billion was intended for tax relief), Chairman Lieberman directed the Committee to monitor government safeguards to prevent waste, fraud, and abuse and to ensure transparency in the spending of such a large pot of money. The Committee held five hearings—including a field hearing in Connecticut—to “ensure that measures are put into place to prevent cost overruns, provide strict oversight of contractor performance, and ensure that fraud is promptly prosecuted in all aspects of stimulus spending,” the Chairman said.

Working with Administration officials and State and local government stakeholders, the Committee helped to resolve potential problems in administering the stimulus funds and promote understanding of the Act’s provisions and their impact.

The first and second hearings on March 5 and April 2, 2009, focused on the measures required by the ARRA to avoid waste and mismanagement. The third hearing on April 8, 2009, in Hartford, Conn., looked at how \$2.9 billion in stimulus funds were being spent in Connecticut. The fourth hearing on April 23, 2009, concentrated on how State and local governments were spending their stimulus money and the need for flexibility in State spending. And the fifth hearing on September 10, 2009, looked at how the Administration had streamlined its red tape to ensure faster spending of stimulus dollars absent waste, fraud, and abuse.

The day before the last hearing, Chairman Lieberman wrote a letter to the Office of Management and Budget Director Peter Orszag and his deputy Robert Nabors commending the positive im-

pact ARRA was having on the economy but urging OMB to pick up the pace of stimulus spending to increase its impact on the unemployed.

Ultimately, Chairman Lieberman concluded the Administration met the levels of transparency and accountability required by the Act, setting a worthy model for large Federal spending programs in the future.

PROTECTING FEDERAL EMPLOYEES

A. DOMESTIC PARTNERS

For the third Congress in a row, Chairman Lieberman advocated for the Domestic Partnership Benefits and Obligations Act, S. 1102, a bill to provide the same employment benefits to—and require the same obligations of—same sex domestic partners of Federal employees that are available to and required of opposite sex spouses of Federal employees. The bill attracted 23 co-sponsors.

Senator Lieberman and Senator Collins introduced the bill on May 20, 2009, when the Chairman delivered a floor speech declaring, “This legislation makes eminent sense for two reasons: It will help the Federal Government attract the best and the brightest and it is the fair and right thing to do from a human rights perspective.”

On October 15, 2009, the Committee held a hearing on the measure with Office of Personnel Management Director John Berry testifying that the cost of the bill in 2010 would represent one-fifth of a percent of the annual total cost of Federal employee health insurance.

A growing majority of private sector companies extend family benefits for their employees in same-sex domestic partnerships to gain a competitive edge in recruitment and retention, to foster an inclusive and productive workplace, and because it is fair.

The Committee marked up and reported the bill out on December 16, 2009, and has been working with the Administration and other stakeholders to develop a winning strategy on the Senate floor.

B. RETIREMENT EQUITY

Senators Lieberman, Collins, Akaka, and Voinovich hailed the FY2010 Department of Defense authorization conference report October 8, 2009, for including a number of provisions intended to ensure equity for various types of participants in the Federal retirement system.

Three provisions—S. 507, S. 469, and S. 629—were ordered reported out of the Committee, the first on April 1, 2009, the latter two on May 20, 2009.

One provision helped agencies rehire experienced employees just as the Federal Government prepares to lose one-third of its civil service workforce to retirement over the next 5 years (S. 629). Another provision allowed Federal employees participating in the Federal Employee Retirement System (FERS) to apply their unused sick leave to their length of service for the purposes of computing the amount of retirement benefits (S. 469). A third provision replaced the cost of living increases that Federal employees in Ha-

waii, Alaska, and U.S. territories receive with locality pay that Federal employees in the contiguous 48 States receive (S. 507).

The Senators previously had attempted to attach the provisions to the Family Smoking Prevention and Tobacco Control Act in June and to the National Defense Authorization Act in July.

“A number of provisions in the DOD authorization conference agreement would bring justice to Federal employees who because of quirks in the law, errors, or oversight, have lost out on retirement benefits for which they would otherwise be eligible,” Senator Lieberman said.

C. WHISTLEBLOWERS

Federal-employee whistleblowers can help improve government effectiveness by identifying and disclosing waste, fraud, and abuse, enabling agencies or Congress to correct the problem. The Whistleblower Protection Act (WPA), championed by Senator Akaka, Chairman of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, ensures that Federal employees are not retaliation against for disclosing that kind of information. Several court cases, however, have misconstrued the intent of Congress and limited the law’s coverage and, therefore, its effectiveness. And national security whistleblowers have, in fact, suffered unfair retaliation. To resolve these misunderstandings, Senator Akaka, Senator Lieberman, and others introduced the Whistleblower Protection Enhancement Act of 2009 (S. 372), on February 3, 2009. The bill extends WPA coverage to situations involving the intelligence community and security clearances. The bill was reported out of HSGAC in December 2009. Bipartisan negotiators from both the Senate and the House tried unsuccessfully to work out details.

D. RELOCATION EXPENSES

On October 21, 2009, the Chairman introduced S. 1825, a bill to extend the authority for relocation expenses test programs for Federal employees. The bill would give General Services Administration (GSA) the permanent authority to test new, more efficient ways to relocate Federal employees. This authority was set to expire in December 2009, but S. 1825 allowed GSA to continue to expand the program, which has been used to save more than \$50 million in Federal tax dollars.

The Committee reported the bill out on November 4, and the Senate passed it by unanimous consent on November 9. The House agreed to the Senate version, and the President signed the bill on November 30, 2009.

IMPROVING GOVERNMENT EFFICIENCY

A. INFORMATION TECHNOLOGY

The Committee has long had an active interest in information technology (IT) and has examined a number of IT projects across government for ways to reduce waste and increase effectiveness. In the 111th Congress, this included reporting out the Information Technology Investment Oversight Enhancement and Waste Prevention Act of 2009 (S. 920), designed to increase transparency and ac-

countability for IT projects and help rein in over budget and overdue projects. The bill passed the Senate in May of 2010.

The Committee also conducted close oversight of the IT Dashboard, which increases the transparency of and agencies accountability for all Federal IT projects, and other Federal Web sites. One site that is designed to streamline the Federal grant process was found instead to make it more difficult. On July 16, 2009, Chairman Lieberman and Senator Voinovich released a GAO report that showed the site was plagued by technical limitations, degraded performance, and user difficulties.

On April 12, 2010, GAO released another report detailing Administration problems with implementation of a series of information technology programs. The Federal Government, GAO concluded, needs to improve the security of its information technology systems by fully implementing key initiatives such as: The Einstein Program, the Trusted Internet Connections Program, and the Federal Desktop Core Configuration Initiative. "The security of Federal IT systems is an every growing problem that must be confronted aggressively and with all available means," the Chairman said in a statement, along with other co-requesters of the report, Senators Collins and Carper.

B. E-GOVERNMENT

RULEMAKING

The Committee reached out to the OMB in the fall of 2009 to discuss the Chairman's concerns with the current status of e-rulemaking and the findings and recommendations in a 2008 report by the American Bar Association. Following the Committee's inquiry, the Office of Information and Regulatory Affairs (OIRA) issued a number of memos recommending better rulemaking practices, including the use of a Regulation Identifier Number (RIN) to track regulations. In April 2010, OIRA Director Cass Sunstein, as reported in the *New York Times*, issued a directive allowing agencies to solicit feedback on proposed rules and regulations through social media.

TELEWORK

Senator Daniel Akaka introduced S. 707, the Telework Enhancement Act, March 25, 2009, to require Federal agencies to prepare and implement plans allowing Federal employees to telework. Agency programs that enable employees to telework, Senator Akaka argued, can improve recruitment, retention, and job satisfaction, save money for the government by reducing the need for office space and resources, be an essential component of continuation of operations (COOP) planning, and reduce traffic congestion and energy consumption. Senator Lieberman co-sponsored the measure, and the full Committee reported it out on May 3, 2010. The Senate passed S. 707 21 days later on May 24, 2010, with amendments. After compromise legislation was negotiated with the House, the Senate passed a modified version as an amendment to H.R. 1722 on September 30, 2010.

C. TELECOMMUNICATIONS

As part of its responsibility to ensure the effective and efficient operation of government, the Committee examined the transition of Federal telecommunications contracts from FTS2001 to Networx, pushing agencies to provide detailed plans on how they will transition to the new contracts. On December 9, 2009, the Chairman and Senator Collins wrote to OMB Deputy Director of Management and Chief Performance Office Jeffrey Zients asking him to exert stronger leadership in Federal agencies' transitions to new telecommunications services as part of the Networx program. The new services were expected to save the Federal Government millions of dollars but instead are costing taxpayers' money as agencies delay transitioning to a new system.

On March 24, 2010, the Senators expressed concern that several departments were not modernizing their telecommunications systems as quickly as they should be. In letters to the Departments of Homeland Security, Defense, Labor, Justice, Health and Human Services, Commerce, and Agriculture, the Senators asked the Secretaries of each Department what actions they were taking to speed up the transition to the Networx program.

D. IMPROPER PAYMENTS

Authored by Senator Carper, and sponsored by Senator Lieberman, the Improper Payments Elimination and Recovery Act, S. 1508, was signed into law in July 2010. The legislation requires Federal agencies to identify and recover the estimated \$100 billion of taxpayer dollars lost annually due to improper payments and prevent future improper payments. The legislation provides important tools to address government waste, including requiring agencies to produce audited, corrective action plans with targets to reduce overpayment errors; and penalizing agencies that fail to comply with current accounting and recovery laws.

E. PERFORMANCE MEASUREMENTS

The Committee worked in an expedited fashion to report out the Government Efficiency, Effectiveness, and Performance Improvement Act of 2010 (H.R. 2142). Sponsored by Rep. Henry Cuellar, D-Texas, the bill would improve government performance and reporting measures, in part by moving these measurements to the Web rather than sending large and often unread reports to Congress. The legislation directs OMB and agencies to work on a Web site so the public can track agency goals and their progress towards those goals. The bill was reported out of Committee on December 7, 2010, passed the Senate on December 16, reconciled with the House version by December 21, and signed by the President on January 4, 2011.

DISTRICT OF COLUMBIA

A. VOTING RIGHTS

The 111th Congress saw the Senate pass an historic voting rights bill for District of Columbia residents for the first time in recent memory. Working with D.C. Delegate Eleanor Holmes Norton,

Chairman Lieberman had introduced legislation to give District residents some form of voting representation in Congress every Congress for the past decade with little success.

On January 2009, the first day of the new Congress, the Chairman introduced The District of Columbia House Voting Rights Act of 2009 (S. 160), with co-sponsor Senator Orrin Hatch, R-Utah. Other co-sponsors included Senators Patrick Leahy, D-Vt., Edward Kennedy, D-Mass., Hillary Clinton, D-N.Y., Christopher Dodd, D-Conn., Bernie Sanders, I-Vt., John Kerry, D-Mass., Russell Feingold, D-Wis., and Richard Durbin, D-Ill. The bill would have given District citizens voting representation in the House by balancing out the Democratic/Republicans ratio with an additional representative from Utah, based on the population count of the 2000 Census.

A little more than a month later, on February 11, the Committee marked up the bill and reported it out on a vote of 11-1. "The right to be counted, to have your voice heard by your government is central to a functioning democracy, fundamental to a free society, and the birthright of all Americans, no matter where they live," the Chairman said.

The Chairman delivered an impassioned speech on the Senate floor on February 24 in favor of righting the longstanding injustice that left the residents of D.C. without voting representation in Congress. "Today, we have a chance to take another historic step to enhance this great democracy by giving voice to the very people—the hard-working men and women who toil away in its capital," the Chairman said.

After 3 days of debate, the Senate voted in favor of the measure 61-37, with six Republicans voting on final passage. Although it was "a moment of joy and progress," in the Chairman's words, S. 160 would eventually die in the House because of a poison pill amendment that would have lifted the District of Columbia's gun ban.

B. EDUCATION

On May 13, 2009, the Committee held a hearing on extending the Opportunity Scholarship Program (OSP), which allows low-income District of Columbia students to attend private school on scholarship. Congress established the D.C. OSP in 2004 as part of a broader educational strategy to provide new funding in equal parts for D.C. public schools, charter schools, and the OSP. The program was set to expire after the 2009-2010 school year, although the Administration said it would support allowing the children already in the program to continue until they graduate.

"The standard for judging any education program should be whether it works, whether it improves the performance of students," Chairman Lieberman said. "It's a factual question based on scientific evaluations and test scores. And when we apply that non ideological, non partisan standard to the Opportunity Scholarship Program, my conclusion is that the program works."

Senate Majority Leader Harry Reid promised Senator Lieberman a full Senate vote on reauthorizing the program. And on March 16, 2010, that vote took place. By a vote of 42-55, the Senate turned back the OSP reauthorization.

WORKING FOR CONNECTICUT

A. HOMELAND SECURITY GRANTS

As Chairman of the Committee, Senator Lieberman's primary efforts on behalf of Connecticut involved securing Federal homeland security grants to protect the State's long coastline, its critical infrastructure, particularly its transportation network and nuclear power plant, and to train and equip Connecticut first responders to assist in recovery from a major terrorist attack or natural disaster.

In FY2009, Connecticut's share of Federal homeland security amounted to \$39,345,407 in homeland security grants, approximately \$600,000 less than the year before. And FY2010 saw an even greater drop of grants to \$37,468,923, due to accelerated efforts to cut the budget and reduce unsustainable deficits.

B. H1N1

When the H1N1 virus broke out in force in the late summer of 2009, Senator Lieberman held a field hearing in Hartford, Connecticut, one of four hearings he held on how government officials were tracking, preparing for, and responding to the virus. Connecticut officials had identified 2,000 cases of H1N1, with nine deaths by the time the field hearing took place on September 21, 2009. The hearing—titled “H1N1 Flu: Protecting Our Community”—focused on how State and local health officials were combating the deadly virus. The Chairman concluded “the State appears to be on track to stay out in front of a broad H1N1 outbreak.” Senator Lieberman urged collaboration and communication among Federal, State, and local government agencies, educational institutions, the healthcare community, businesses, and the public.

“We are fortunate that, so far, new cases of the virus have continued to show the same mild to moderate symptoms as we observed last spring, but outbreaks of infectious diseases are hard to predict, so circumstances could still change dramatically over the coming weeks and months. Therefore, we must remain on heightened alert, continue to take preventative action, work together and hone communications with the public, and—while hoping for the best—we must prepare for the worst.”

According to the Connecticut Department of Public Health, vaccination centers in Connecticut received 178,000 doses of the H1N1 vaccine as of October 28. The State had been promised 500,000 doses by the end of October, which came later, in November, for high-risk patients such as pregnant women, health care workers, people with conditions such as asthma or diabetes and youth ages 2 through 24.

“We are holding this hearing now because it is the beginning of the flu season,” Lieberman said. “But September is also National Preparedness Month, and therefore a good time to remind people that they contribute to the well-being of their own communities when they take time to inform themselves about existing threats. Preventing the spread of the flu is something that every single person can and must help with, and I hope that this hearing further inspires people from all walks of life to do their part.”

MISCELLANEOUS

A. IRAN SANCTIONS

The Chairman called a hearing May 12, 2010, to bring attention to the fact that the U.S. Government awarded nearly \$1 billion in Federal contracts from 2005-2009 to companies doing business with Iran, despite the 1996 Iran Sanctions Act which prohibits such behavior. Yet, no company has been sanctioned under the law. The data was revealed in a GAO report that was released at the hearing.

“The U.S. Government’s market power gives us the ability to influence the behavior of companies doing business with Iran and to give them a choice between doing business with us or doing business with Iran,” Senator Lieberman said. “We no longer should allow businesses to do both.”

B. FISCAL BALANCE

On May 14, 2009, the Chairman joined Senator Voinovich in introducing the SAFE Commission Act (S. 1056), in an effort to get a handle on the exploding debt. The legislation would establish the Securing America’s Future Economy (SAFE) Commission to develop legislation designed to address: (1) the unsustainable imbalance between long-term Federal spending commitments and projected revenues; (2) increases in net national savings to provide for domestic investment and economic growth; (3) the implications of foreign ownership of federally issued debt instruments; and (4) revision of the budget process to place greater emphasis on long-term fiscal issues.

The Committee held a hearing December 17, 2009, on how to deal with the \$12 trillion national debt, and leading financial experts testified that the only way Congress could tackle it would be through a statutorily-created bipartisan commission. Witnesses, including former Federal Reserve Chairman Alan Greenspan, said that the commission’s recommendations must then be put on a legislation fast track and should not be subject to amendment.

“The American people have reached a tipping point on this,” the Chairman said. “They see that Washington is incapable of dealing with the debt, ultimately, because we are irresponsible. We like to spend and we don’t like to raise taxes. You don’t have to be Alan Greenspan to know that will lead to an unsustainable debt.

“If we continue adding to the debt . . . we put at risk our economic and national security; we place our Nation’s economy at the mercies of foreign creditors who don’t always share our values, and we put in jeopardy generational promises we have made to ourselves and our children, like Medicare and Social Security.”

C. PAYMENT FOR RIDES ON CORPORATE JETS

A longtime proponent of campaign finance reform, Chairman Lieberman, along with Senators Feingold and McCain, introduced legislation in December 2009 to overturn a Federal Election Commission (FEC) ruling that effectively gutted Congress’ work to crack down on Senators accepting rides on corporate jets.

The Honest Leadership and Open Government Act of 2007 contained new rules on personal, official, and campaign travel on non-

commercial aircraft or corporate jets, requiring Senators who travel on corporate jets to reimburse the jet provider at the rate of a charter flight rather than the cost of a first class ticket.

But the FEC, showing utter disregard for Congress' intent, created a loophole in the statute for members' travel on corporate jets on behalf of someone's campaign other than their own.

D. POLICY CZARS

The Chairman held a hearing October 22, 2009, on the competing interests between the President's constitutional right to appoint his own policy advisors and Congress' responsibility to oversee Executive Branch activities. Estimates of current Executive Branch czars varies, so the Committee limited its discussion to non-statutory, unconfirmed advisors working at the White House who have made it clear they would not testify before Congress. That limited the number to between four and eight czars.

"The real issue today is not the number of White House policy advisors appointed by President Obama versus his predecessors," the Chairman said. "The real issue is accountability and whether the use of presidentially-appointed policy czars, regardless of which President appointed them, adversely affects congressional oversight, and government accountability and transparency. Balancing the inherent tensions that exist between the Legislative and Executive Branches is a work in progress but I would like to determine if we can achieve a balance that satisfied the legitimate demands of both branches."

Among the witnesses was former Homeland Security Secretary Tom Ridge, who had served as a Special Advisor to the President on Homeland Security.

E. CENSUS

Chairman Lieberman issued a press release on August 10, 2010, praising the Census Bureau for bringing the 2010 Census in well under budget. The Bureau said that it would return at least \$1.6 billion to the Treasury, or 22 percent of the contingency budget set aside for a major natural disaster or other operational failing. "After a difficult lead up to the 2010 Census, the Bureau should be commended for returning \$1.6 billion to taxpayers," the Chairman said. "A little bit of luck, hard work by Census employees, and the cooperation of people who mailed back their forms means this massive undertaking has come in under budget, a pleasant surprise."

F. PRESIDENTIAL TRANSITIONS

On August 2, 2010, the Committee reported out S. 3196, Pre-Election Presidential Transition Act, sponsored by Senator Kaufman. The bill sought to encourage earlier transition planning and preparations by both presidential candidates and incumbent administrations to help ensure a smoother presidential transition and protect national security at a time of potential vulnerability. The bill passed the Senate by unanimous consent on September 24, 2010, and cleared the House on September 30. It was enacted into law on October, 15, 2010.

G. SAM HICKS

On May 25, 2009, the Committee reported out H.R. 2711, The Special Agent Samuel Hicks Families of Fallen Heroes Act, to allow Federal law enforcement agencies to assist families of law enforcement officers killed on the job with relocation costs if they want to move from a posting back to their home communities. FBI Special Agent Sam Hicks was fatally shot while executing a Federal search warrant on a drug distribution ring. Prior to the law's enactment, the FBI was barred from assisting with his family's moving costs. This legislation lifted that restriction and allows the Federal Government to assist the families of our fallen heroes. The Senate passed the measure on May 14, 2010, by unanimous consent, and was signed into law June 9, 2010.

H. INSPECTORS GENERAL

On June 18, 2009, Senator Lieberman commented on the procedures used in firing Gerald Walpin as Inspector General of the Corporation for National and Community Service. Questions had been raised about whether the Administration had followed the law to provide Congress with an adequate written explanation for the firing. "Through two letters and oral briefings, the White House has communicated a number of concerns with Mr. Walpin's conduct as Inspector General. . . . I will continue to review the matter . . . to ensure that the Administration had ample justification for its actions." The next day, Senators Lieberman, Collins, and McCaskill wrote to the President to say "we believe you have met the letter and spirit of the Inspector General Reform Act of 2008 with respect to congressional notifications of removal or transfer" and they asked for additional information. On June 24, Committee Communications Director Leslie Phillips sent a letter to the editor of the *Washington Times* contesting an editorial that implied the firing was political and the Senator was not investigating sufficiently. In part, the letter said: "Contrary to the impression left by your editorial, Senator Lieberman and his Committee colleagues are committed to conducting an independent review to make sure Mr. Walpin's termination was not arbitrary, capricious, punitive, or political. And that is what they are doing."

The Chairman, Senator Collins, and three other Members of the Committee expressed concern on January 21, 2010, about allegations that an Office of Management and Budget employee threatened the Office of Personnel Management (OPM) Inspector General. In a letter to OMB Director Peter Orszag, the Senators asked OMB to review the incident and report back to the Committee on its findings.

II. COMMITTEE JURISDICTION

The jurisdiction of the Committee derives from the Rules of the Senate and from Senate Resolutions:

RULE XXV

* * * * *

(k)(1) Committee on Governmental Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Archives of the United States.
2. Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.
3. Census and collection of statistics, including economic and social statistics.
4. Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.
5. Federal Civil Service.
6. Government information.
7. Intergovernmental relations.
8. Municipal affairs of the District of Columbia, except appropriations therefore.
9. Organization and management of United States nuclear export policy.
10. Organization and reorganization of the Executive Branch of the Government.
11. Postal Service.
12. Status of officers and employees of the United States, including their classification, compensation, and benefits.

(2) Such committee shall have the duty of—

(A) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(B) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(C) evaluating the effects of laws enacted to reorganize the Legislative and Executive Branches of the Government; and

(D) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

SENATE RESOLUTION 73, 111TH CONGRESS

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS.
Sec. 12. (a) * * *

* * * * *

(e) INVESTIGATIONS—

(1) IN GENERAL—The committee, or any duly authorized subcommittee of the committee, is authorized to study or investigate—

(A) the efficiency and economy of operations of all branches of the Government including the possible existence of fraud, misfeasance, malfeasance, collusion, mismanagement, incompetence, corruption, or unethical practices, waste, extravagance, conflicts of interest, and the improper expenditure of Government funds in transactions, contracts, and activities of the Government or of Government officials and employees and any and all such improper practices between Government personnel and corporations, individuals, companies, or persons affiliated therewith, doing business with the Government; and the compliance or noncompliance of such corporations, companies, or individuals or other entities with the rules, regulations, and laws governing the various governmental agencies and its relationships with the public;

(B) the extent to which criminal or other improper practices or activities are, or have been, engaged in the field of labor-management relations or in groups or organizations of employees or employers, to the detriment of interests of the public, employers, or employees, and to determine whether any changes are required in the laws of the United States in order to protect such interests against the occurrence of such practices or activities;

(C) organized criminal activity which may operate in or otherwise utilize the facilities of interstate or international commerce in furtherance of any transactions and the manner and extent to which, and the identity of the persons, firms, or corporations, or other entities by whom such utilization is being made, and further, to study and investigate the manner in which and the extent to which persons engaged in organized criminal activity have infiltrated lawful business enterprise, and to study the adequacy of Federal laws to prevent the operations of organized crime in interstate or international commerce; and to determine whether any changes are required in the laws of the United States in order to protect the public against such practices or activities;

(D) all other aspects of crime and lawlessness within the United States which have an impact upon or affect the national health, welfare, and safety; including but not limited to investment fraud schemes, commodity and security fraud, computer fraud, and the use of offshore banking and corporate facilities to carry out criminal objectives;

(E) the efficiency and economy of operations of all branches and functions of the Government with particular reference to—

(i) the effectiveness of present national security methods, staffing, and processes as tested against the requirements imposed by the rapidly mounting complexity of national security problems;

(ii) the capacity of present national security staffing, methods, and processes to make full use of the Nation's resources of knowledge and talents;

(iii) the adequacy of present intergovernmental relations between the United States and international organizations principally concerned with national security of which the United States is a member; and

(iv) legislative and other proposals to improve these methods, processes, and relationships;

(F) the efficiency, economy, and effectiveness of all agencies and departments of the Government involved in the control and man-

agement of energy shortages including, but not limited to, their performance with respect to—

(i) the collection and dissemination of accurate statistics on fuel demand and supply;

(ii) the implementation of effective energy conservation measures;

(iii) the pricing of energy in all forms;

(iv) coordination of energy programs with State and local government;

(v) control of exports of scarce fuels;

(vi) the management of tax, import, pricing, and other policies affecting energy supplies;

(vii) maintenance of the independent sector of the petroleum industry as a strong competitive force;

(viii) the allocation of fuels in short supply by public and private entities;

(ix) the management of energy supplies owned or controlled by the Government;

(x) relations with other oil producing and consuming countries;

(xi) the monitoring of compliance by governments, corporations, or individuals with the laws and regulations governing the allocation, conservation, or pricing of energy supplies; and

(xii) research into the discovery and development of alternative energy supplies; and

(G) the efficiency and economy of all branches and functions of Government with particular references to the operations and management of Federal regulatory policies and programs.

(2) EXTENT OF INQUIRIES—In carrying out the duties provided in paragraph (1), the inquiries of this committee or any subcommittee of the committee shall not be construed to be limited to the records, functions, and operations of any particular branch of the Government and may extend to the records and activities of any persons, corporation, or other entity.

(3) SPECIAL COMMITTEE AUTHORITY—For the purposes of this subsection, the committee, or any duly authorized subcommittee of the committee, or its chairman, or any other member of the committee or subcommittee designated by the chairman, from March 1, 2009, through February 28, 2011, is authorized, in its, his, or their discretion—

(A) to require by subpoena or otherwise the attendance of witnesses and production of correspondence, books, papers, and documents;

(B) to hold hearings;

(C) to sit and act at any time or place during the sessions, recess, and adjournment periods of the Senate;

(D) to administer oaths; and

(E) to take testimony, either orally or by sworn statement, or, in the case of staff members of the Committee and the Permanent Subcommittee on Investigations, by deposition in accordance with the Committee Rules of Procedure.

(4) AUTHORITY OF OTHER COMMITTEES—Nothing contained in this subsection shall affect or impair the exercise of any other standing committee of the Senate of any power, or the discharge by such committee of any duty, conferred or imposed upon

it by the Standing Rules of the Senate or by the Legislative Reorganization Act of 1946.

(5) SUBPOENA AUTHORITY—All subpoenas and related legal processes of the committee and its subcommittee authorized under S. Res. 89, agreed to March 1, 2007 (110th Congress) are authorized to continue.

III. BILLS AND RESOLUTIONS REFERRED AND CONSIDERED

During the 111th Congress, 176 Senate bills and 121 House bills were referred to the Committee for consideration. In addition, 6 Senate Resolutions and 5 Senate Concurrent Resolutions were referred to the Committee.

The Committee reported 151 bills; an additional 14 measures were discharged. Of the legislation received by the Committee, 93 measures became public laws, including 70 postal naming bills.

IV. HEARINGS

During the 111th Congress, the Committee held 86 hearings on legislation, oversight issues, and nominations. Hearing titles and dates follow.

The Committee also held 19 scheduled business meetings.

Lists of hearings with copies of statements by Members and witnesses, with archives going back to 1997, are online at the Committee's Web site, <http://hsgac.senate.gov/>.

Lessons from the Mumbai Terrorist Attacks—Parts I and II. January 8 and 28, 2009. (S. Hrg. 111–581).

Nomination of Peter R. Orszag to be Director, Office of Management and Budget. January 14, 2009. (S. Hrg. 111–549).

Nomination of Robert L. Nabors II to be Deputy Director, Office of Management and Budget. January 14, 2009. (S. Hrg. 111–440).

Nomination of Hon. Janet A. Napolitano to be Secretary, U.S. Department of Homeland Security. January 15, 2009. (S. Hrg. 111–602).

Where Were the Watchdogs? The Financial Crisis and the Breakdown of Financial Governance. January 21, 2009. Where Were the Watchdogs? Systemic Risk and the Breakdown of Financial Governance. March 4, 2009. Where Were the Watchdogs? Financial Regulatory Lessons from Abroad. May 21, 2009. (S. Hrg. 111–614).

Structuring National Security and Homeland Security at the White House. February 12, 2009. (S. Hrg. 111–654).

Follow the Money: Transparency and Accountability For Recovery and Reinvestment Spending. March 5, 2009. Recovery and Reinvestment Spending: Implementing a Bold Oversight Strategy. April 2, 2009. The American Recovery and Reinvestment Act: Making the Economic Stimulus Work for Connecticut. April 7, 2009. Follow the Money: State and Local Oversight of Stimulus Funding. April 23, 2009. Follow the Money: An Update on Stimulus Spending, Transparency, and Fraud Prevention. September 10, 2009. (S. Hrg. 111–978).

Violent Islamist Extremism: Al-Shabaab Recruitment in America. March 11, 2009. Eight Years After 9/11: Confronting the Terrorist Threat to the Homeland. September 30, 2009. (S. Hrg. 111–678).

Southern Border Violence: Homeland Security Threats, Vulnerabilities, and Responsibilities. March 25, 2009. Southern

Border Violence: State and Local Perspectives. April 20, 2009. (S. Hrg. 111–791).

Nomination of Jane Holl Lute to be Deputy Secretary, U.S. Department of Homeland Security. March 26, 2009. (S. Hrg. 111–979).

Nomination of Hon. M. John Berry to be Director, Office of Personnel Management. March 26, 2009. (S. Hrg. 111–663).

Nomination of W. Craig Fugate to be Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security. April 22, 2009. (S. Hrg. 111–677).

Nomination of John T. Morton to be Assistant Secretary, U.S. Department of Homeland Security. April 22, 2009. (S. Hrg. 111–573).

Cyber Security: Developing a National Strategy. April 28, 2009. Cyber Attacks: Protecting Industry Against Growing Threats. September 14, 2009. (S. Hrg. 111–724).

Swine Flu: Coordinating the Federal Response. April 29, 2009. H1N1 Flu: Protecting Our Communities. September 21, 2009. H1N1 Flu: Monitoring the Nation's Response. October 21, 2009. H1N1 Flu: Getting the Vaccine to Where it is Most Needed. November 17, 2009. (S. Hrg. 111–910)

Nominations of Ivan K. Fong to be General Counsel, U.S. Department of Homeland Security, and Timothy W. Manning to be Deputy Administrator (for National Preparedness), Federal Emergency Management Agency, U.S. Department of Homeland Security. April 30, 2009. (S. Hrg. 111–637).

Nomination of Cass R. Sunstein to be Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget. May 12, 2009. (S. Hrg. 111–463).

The Homeland Security Department's Budget Submission for Fiscal Year 2010. May 12, 2009. May 12, 2009. (S. Hrg. 111–980).

The D.C. Opportunity Scholarship Program: Preserving School Choice for All. May 13, 2009. (S. Hrg. 111–814).

Nominations of David F. Heyman to be Assistant Secretary, U.S. Department of Homeland Security, and Marisa J. Demeo and Florence Y. Pan to be Associate Judges, Superior Court of the District of Columbia. May 13, 2009. (S. Hrg. 111–767).

Nomination of Robert M. Groves to be Director of the Census, U.S. Department of Commerce. May 15, 2009. (S. Hrg. 111–803).

Nomination of Hon. Rand Beers to be Under Secretary (for National Protection and Programs), U.S. Department of Homeland Security. June 2, 2009. (S. Hrg. 111–676).

Nomination of Martha N. Johnson to be Administrator, General Services Administration. June 3, 2009. (S. Hrg. 111–460).

Nominations of Hon. Tara J. O'Toole to be Under Secretary for Science and Technology, U.S. Department of Homeland Security, and Jeffrey D. Zients to be Deputy Director for Management, Office of Management and Budget. June 10, 2009. (S. Hrg. 111–838).

Examining State Business Incorporation Practices: A Discussion of the Incorporation Transparency and Law Enforcement Assistance Act. June 18, 2009. Business Formation and Financial Crime: Finding a Legislative Solution. November 5, 2009. (S. Hrg. 111–953).

Type 1 Diabetes Research: Real Progress and Real Hope for a Cure. June 24, 2009. (S. Hrg. 111–908).

The Federal Protective Service: Time For Reform. July 8, 2009. (S. Hrg. 111-686).

Identification Security: Reevaluating the REAL ID Act. July 15, 2009. (S. Hrg. 111-981).

Nominations of Hon. Christine M. Griffin to be Deputy Director, Office of Personnel Management, and Stuart G. Nash to be Associate Judge, Superior Court of the District of Columbia. July 16, 2009. (S. Hrg. 111-687).

Nomination of Alexander G. Garza to be Assistant Secretary and Chief Medical Officer, U.S. Department of Homeland Security. July 28, 2009. (S. Hrg. 111-574).

Nominations of Hon. Ernest W. Dubester to be Member, Federal Labor Relations Authority; Julia Atkins Clark to be General Counsel, Federal Labor Relations Authority; and Rafael Borrás to be Under Secretary for Management, U.S. Department of Homeland Security. July 29, 2009. (S. Hrg. 111-882).

Nomination of Kelvin J. Cochran to be Administrator, U.S. Fire Administration, Federal Emergency Management Agency, U.S. Department of Homeland Security. August 5, 2009. (S. Hrg. 111-475).

Nomination of Daniel I. Werfel to be Controller, Office of Federal Financial Management, Office of Management and Budget. September 16, 2009. (S. Hrg. 111-575).

Nomination of Richard A. Serino to be Deputy Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security. September 16, 2009. (S. Hrg. 111-454).

World At Risk: The Weapons of Mass Destruction Prevention and Preparedness Act of 2009. September 22, 2009. (S. Hrg. 111-757).

Defense Contract Audit Agency: Who is Responsible for Reform? September 23, 2009. (S. Hrg. 111-945).

Nomination of David S. Ferriero to be Archivist of the United States, National Archives and Records Administration. October 1, 2009. (S. Hrg. 111-555).

Domestic Partner Benefits: Fair Policy and Good Business for the Federal Government. October 15, 2009. (S. Hrg. 111-758).

Nominations of Susan Tsui Grundmann to be Chairman, Merit Systems Protection Board, and Anne Marie Wagner to be Member, Merit Systems Protection Board. October 20, 2009. (S. Hrg. 111-452).

Presidential Advice and Senate Consent: The Past, Present, and Future of Policy Czars. October 22, 2009. (S. Hrg. 111-805).

Nominations of Erroll G. Southers to be Assistant Secretary, U.S. Department of Homeland Security, and Daniel I. Gordon to be Administrator for Federal Procurement Policy, Office of Management and Budget. November 10, 2009. (S. Hrg. 111-852).

The Fort Hood Attack: A Preliminary Assessment. November 19, 2009. (S. Hrg. 111-810).

Nomination of Alan C. Kessler to be Governor, U.S. Postal Service. November 19, 2009. (S. Hrg. 111-567).

Nomination of Caryn A. Wagner to be Under Secretary for Intelligence and Analysis, U.S. Department of Homeland Security. December 3, 2009. (S. Hrg. 111-568).

Five Years After the Intelligence Reform and Terrorism Prevention Act: Stopping Terrorist Travel. December 9, 2009. (S. Hrg. 111-957).

Nominations of Grayling G. Williams to be Director, Office of Counternarcotics Enforcement, U.S. Department of Homeland Security, and Elizabeth M. Harman to be Assistant Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security. December 10, 2009. (S. Hrg. 111-644).

Safeguarding the American Dream: Prospects for Our Economic Future and Proposals to Secure it. December 17, 2009. (S. Hrg. 111-969).

Intelligence Reform: The Lessons and Implications of the Christmas Day Attack, Part I. January 20, 2010. Intelligence Reform: The Lessons and Implications of the Christmas Day Attack, Part II. January 26, 2010. The Lessons and Implications of the Christmas Day Attack: Watchlisting and Pre-Screening. March 10, 2010. The Lessons and Implications of the Christmas Day Attack: Intelligence Reform and Interagency Integration. March 17, 2010. The Lessons and Implications of the Christmas Day Attack: Securing the Visa Process. April 21, 2010. (S. Hrg. 111-1070).

The Homeland Security Department's Budget Submission for Fiscal Year 2011. February 24, 2010. (S. Hrg. 111-1019).

Chemical Security: Assessing Progress and Charting a Path Forward. March 3, 2010. (S. Hrg. 111-1020).

Nomination of Major General Robert A. Harding, Retired, to be Assistant Secretary, U.S. Department of Homeland Security. March 24, 2010. (S. Hrg. 111-1032).

Border Security: Moving Beyond the Virtual Fence. April 20, 2010. (S. Hrg. 111-1051).

Nominations of Hon. Dennis P. Walsh to be Chairman, Special Panel on Appeals; Hon. Dana Katherine Bilyeu and Michael D. Kennedy to be Members, Federal Retirement Thrift Investment Board; and Milton C. Lee Jr., Judith Anne Smith, and Todd E. Edelman to be Associate Judges, Superior Court of the District of Columbia. April 20, 2010. (S. Hrg. 111-1037).

Terrorists and Guns: The Nature of the Threat and Proposed Reforms. May 5, 2010. (S. Hrg. 111-1079).

Iran Sanctions: Why Does the U.S. Government Do Business With Companies Doing Business In Iran? May 12, 2010. (S. Hrg. 111-1081).

Gulf Coast Catastrophe: Assessing the Nation's Response to the Deepwater Horizon Oil Spill. May 17, 2010. (S. Hrg. 111-1089).

Nomination of Dennis J. Toner to be Governor, U.S. Postal Service. June 10, 2010. (S. Hrg. 111-1045).

Protecting Cyberspace as a National Asset: Comprehensive Legislation for the 21st Century. June 15, 2010. Securing Critical Infrastructure in the Age of Stuxnet. November 17, 2010. (S. Hrg. 111-1103).

Nomination of John S. Pistole to be Assistant Secretary, U.S. Department of Homeland Security. June 17, 2010. (S. Hrg. 111-1082).

Nuclear Terrorism: Strengthening Our Domestic Defenses—Parts I and II. June 30 and September 15, 2010. (S. Hrg. 111-1096).

Charting a Path Forward: The Homeland Security Department's Quadrennial Homeland Security Review and Bottom-Up Review. July 21, 2010. (S. Hrg. 111-1097).

Nomination of Hon. Jacob J. Lew to be Director, Office of Management and Budget. September 16, 2010. (S. Hrg. 111-1090).

Nomination of Maria Elizabeth Raffinan to be Associate Judge, Superior Court of the District of Columbia. September 21, 2010. (S. Hrg. 111–1050).

Nine Years After 9/11: Confronting the Terrorist Threat to the Homeland. September 22, 2010. (S. Hrg. 111–1104)

Closing the Gaps in Air Cargo Security. November 16, 2010. (S. Hrg. 111–1105).

Nomination of Eugene L. Dodaro to be Comptroller General of the United States, U.S. Government Accountability Office. November 18, 2010. (S. Hrg. 111–1076).

V. REPORTS, PRINTS, AND GAO REPORTS

During the 111th Congress, the Committee prepared and issued 48 reports and six Committee Prints. Reports issued by Committee are listed on the following bills.

COMMITTEE REPORTS

To reauthorize and improve the Federal Financial Assistance Management Improvement Act of 1999. S. Rept. 111–7, re. S. 303.

To provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction. S. Rept. 111–15, re. S. 615.

To amend chapter 22 of title 44, United States Code, popularly known as the Presidential Records Act, to establish procedures for the consideration of claims of constitutionally based privilege against disclosure of Presidential records. S. Rept. 111–21, re. H.R. 35.

To require the Administrator of the Federal Emergency Management Agency to quickly and fairly address the abundance of surplus manufactured housing units stored by the Federal Government around the country at taxpayer expense. S. Rept. 111–23, re. S. 713.

To amend the American Recovery and Reinvestment Act to provide for enhanced State and local oversight of activities conducted under such Act, and for other purposes. S. Rept. 111–56, re. S. 1064.

To amend chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in the fire protection activities caused by any of certain diseases is the result of the performance of such employee's duty. S. Rept. 111–75, re. S. 599.

To prevent abuse of Government charge cards. S. Rept. 111–76, re. S. 942.

To provide for the establishment, administration, and funding of Federal Executive Boards, and for other purposes. S. Rept. 111–77, re. S. 806.

To transfer statutory entitlements to pay and hours of work authorized by the District of Columbia Code for current members of the United States Secret Service Uniformed Division for the District of Columbia Code to the United States Code. S. Rept. 111–86, re. S. 1510.

To provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances. S. Rept. 111–87, re. S. 692.

To provide for retirement equity for Federal employees in nonforeign areas outside the 48 contiguous States and the District of Columbia, and for other purposes. S. Rept. 111–88, re. S. 507.

To establish a Deputy Secretary of Homeland Security for Management, and for other purposes. S. Rept. 111–91, re. S. 872.

To amend chapter 23 of title 5, United States Code, to clarify the disclosures of information protected from prohibited personnel practices, require a statement in nondisclosure policies, forms, and agreements that such policies, forms, and agreements conform with certain disclosure protections, provide certain authority for the Special Counsel, and for other purposes. S. Rept. 111–101, re. S. 372.

To enhance citizen access to Government information and services by establishing that Government documents issued to the public must be written clearly, and for other purposes. S. Rept. 111–102, re. S. 574.

To authorize appropriations for grants to States participating in the Emergency Management Assistance Compact, and for other purposes. S. Rept. 111–103, re. S. 1288.

To repeal title II of the REAL ID Act of 2005 and amend title II of the Homeland Security Act of 2002 to better protect the security, confidentiality, and integrity of personally identifiable information collected by States when issuing driver's licenses and identification documents, and for other purposes. S. Rept. 111–104, re. S. 1261.

To direct the Department of Homeland Security to undertake a study on emergency communications. S. Rept. 111–105, re. S. 1755.

To establish a fact-finding Commission to extend the study of a prior Commission to investigate and determine facts and circumstances surrounding the relocation, internment, and deportation to Axis countries of Latin Americans of Japanese descent from December 1941 through February 1948, and the impact of those actions by the United States, and to recommend appropriate remedies, and for other purposes. S. Rept. 111–112, re. S. 69.

To reauthorize the Congressional Award Act (2 U.S.C. 801 et seq.) and for other purposes. S. Rept. 111–163, re. S. 2865.

To establish the Chief Conservation Officers Council to improve the energy efficiency of Federal agencies, and for other purposes. S. Rept. 111–167, re. S. 1830.

To enhance the Federal Telework Program. S. Rept. 111–177, re. S. 707.

To amend section 11317 of title 40, United States Code, to improve the transparency of the status of information technology investments, to require greater accountability for cost overruns on Federal information technology investment projects, to improve the processes agencies implement to manage information technology acquisition, and for other purposes. S. Rept. 111–179, re. S. 920.

To provide for improvements in the Federal hiring process, and for other purposes. S. Rept. 111–184, re. S. 736.

To provide increased access to the General Services Administration's Schedules Program by the American Red Cross and State and local governments. S. Rept. 111–192, re. S. 2868.

To require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified home-

land security and other information, and for other purposes. S. Rept. 111–200, re. H.R. 553.

To amend chapter 89 of title 5, United States Code, to reform Postal Service retiree health benefits funding, and for other purposes. S. Rept. 111–203, re. S. 1507.

To authorize appropriations for the National Historical Publications and Records Commission through fiscal year 2014, and for other purposes. S. Rept. 111–213, re. S. 2872.

To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster hazard mitigation program, and for other purposes. S. Rept. 111–215, re. S. 3249.

To provide that certain Secret Service employees may elect to transition to coverage under the District of Columbia Police and Fire Fighter Retirement and Disability System. S. Rept. 111–231, re. S. 1862.

To provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp. S. Rept. 111–234, re. H.R. 1454.

To improve the provision of assistance to fire departments, and for other purposes. S. Rept. 111–235, re. S. 3267.

To amend the Presidential Transition Act of 1963 to provide that certain transition services shall be available to eligible candidates before the general election. S. Rept. 111–239, re. S. 3196.

To allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose services is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service. S. Rept. 111–248, re. H.R. 1517.

To provide for identifying and eliminating redundant reporting requirements and developing meaningful performance metrics for homeland security preparedness grants, and for other purposes. S. Rept. 111–291, re. H.R. 3980.

To amend the National Children’s Island Act of 1995 to expand allowable uses for Kingman and Heritage Islands by the District of Columbia, and for other purposes. S. Rept. 111–300, re. H.R. 2092.

To require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to complete all periodic background reinvestigations of certain law enforcement personnel, and for other purposes. S. Rept. 111–338, re. S. 3243.

To amend title 5, United States Code, to eliminate the discriminatory treatment of the District of Columbia under provisions of law commonly referred to as the “Hatch Act.” S. Rept. 111–339, re. H.R. 1345.

To amend title 31, United States Code, to enhance the oversight authorities of the Comptroller General, and for other purposes. S. Rept. 111–350, re. S. 2991.

To amend title 13 of the United States Code to provide for a 5-year term of office for the Director of the Census and to provide for authority and duties of the Director and Deputy Director of the Census, and for other purposes. S. Rept. 111–351, re. S. 3167.

Activities of the Committee on Homeland Security and Governmental Affairs. S. Rept. 111–360.

To amend chapter 41 of title 5, United States Code, to provide for the establishment and authorization of funding for certain

training programs for supervisors of Federal employees. S. Rept. 111–364, re. S. 674.

To require Congress to establish a unified and searchable database on a public Web site for congressional earmarks as called for by the President in his 2010 State of the Union Address to Congress. S. Rept. 111–365, re. S. 3335.

To amend the Homeland Security Act of 2002 and other laws to enhance the security and resiliency of the cyber and communications infrastructure of the United States. S. Rept. 111–368, re. S. 3480.

To amend the Homeland Security Act of 2002 to enhance security and protect against acts of terrorism against chemical facilities, to amend the Safe Drinking Water Act to enhance the security of public water systems, and to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works, and for other purposes. S. Rept. 111–370, re. H.R. 2868.

To require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council. S. Rept. 111–372, re. H.R. 2142.

To amend chapter 21 of title 5, United States Code, to provide that fathers of certain permanently disabled or deceased veterans shall be included with mothers of such veterans as preference eligible for treatment in the civil service. S. Rept. 111–374, re. S. 3650.

To provide benefits to domestic partners of Federal employees. S. Rept. 111–376, re. S. 1102.

To prevent the proliferation of weapons of mass destruction, to prepare for attacks using weapons of mass destruction, and for other purposes. S. Rept. 111–377, re. S. 1649.

COMMITTEE PRINTS

The Committee issued the following Committee Prints during the 111th Congress:

Rules of Procedure. Committee on Homeland Security and Governmental Affairs. (Printed. 36 pp. S. Prt. 111–12.)

Rules of Procedure. Permanent Subcommittee on Investigations. (Printed. 18 pp. S. Prt. 111–13.)

Organization of Federal Executive Departments and Agencies. Agencies and Functions of the Federal Government Established, Abolished, Continued, Modified, reorganized, Extended, Transferred, or Changed in Name by Legislative or Executive Action During Calendar Years 2007 and 2008. (Prepared by the Office of the Federal Register, National Archives and Records Administration for the Committee on Homeland Security and Governmental Affairs.) (Printed. 29 pp. S. Prt. 111–25)

Rules of Procedure. Committee on Homeland Security and Governmental Affairs. (Printed. 36 pp. S. Prt. 111–31.) (Revised)

Rules of Procedure. Permanent Subcommittee on Investigations. (Printed. 18 pp. S. Prt. 111–32.) (Revised)

Legislative Calendar for the 111th Congress, (Printed. 174 pp. S. Prt. 111–63.) (December 31, 2011).

GAO REPORTS

Also during the 111th Congress, the Government Accountability Office (GAO) issued 176 reports at the request of the Committee.

GAO reports requested by the Subcommittees appear in their respective sections. Reports are listed here by title, GAO number, and release date.

Financial Regulation: A Framework for Crafting and Assessing Proposals to Modernize the Outdated U.S. Financial Regulatory System. GAO-09-216. January 08, 2009.

Defense Logistics: Lack of Key Information May Impede DOD's Ability to Improve Supply Chain Management. GAO-09-150. January 12, 2009.

Aviation Security: Federal Air Marshal Service Has Taken Actions to Fulfill Its Core Mission and Address Workforce Issues, but Additional Actions Are Needed to Improve Workforce Survey. GAO-09-273. January 14, 2009.

Nuclear Detection: Domestic Nuclear Detection Office Should Improve Planning to Better Address Gaps and Vulnerabilities. GAO-09-257. January 29, 2009.

Military Base Realignments and Closures: DOD Faces Challenges in Implementing Recommendations on Time and Is Not Consistently Updating Savings Estimates. GAO-09-217. January 30, 2009.

Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws. GAO-09-109. January 30, 2009.

Veterinarian Workforce: Actions Are Needed to Ensure Sufficient Capacity for Protecting Public and Animal Health. GAO-09-178. February 04, 2009.

Small Business Administration: Additional Guidance on Documenting Credit Elsewhere Decisions Could Improve 7(a) Program Oversight. GAO-09-228. February 12, 2009.

Bank Secrecy Act: Federal Agencies Should Take Action to Further Improve Coordination and Information-Sharing Efforts. GAO-09-227. February 12, 2009.

Older Workers: Enhanced Communication among Federal Agencies Could Improve Strategies for Hiring and Retaining Experienced Workers. GAO-09-206. February 24, 2009.

Nuclear Nonproliferation: Strengthened Oversight Needed to Address Proliferation and Management Challenges in IAEA's Technical Cooperation Program. GAO-09-275. March 05, 2009.

Information Technology: Census Bureau Testing of 2010 Decennial Systems Can Be Strengthened. GAO-09-262. March 05, 2009.

2008 Lobbying Disclosure: Observations on Lobbyists' Compliance with Disclosure Requirements. GAO-09-487. April 01, 2009.

Foreign Aid Reform: Comprehensive Strategy, Interagency Coordination, and Operational Improvements Would Bolster Current Efforts. GAO-09-192. April 17, 2009.

Iraqi Refugee Assistance: Improvements Needed in Measuring Progress, Assessing Needs, Tracking Funds, and Developing an International Strategic Plan. GAO-09-120. April 21, 2009.

Recovery Act: As Initial Implementation Unfolds in States and Localities, Continued Attention to Accountability Issues Is Essential. GAO-09-580. April 23, 2009.

National Preparedness: FEMA Has Made Progress, but Needs to Complete and Integrate Planning, Exercise, and Assessment Efforts. GAO-09-36. April 30, 2009.

Financial Management: Achieving Financial Statement Auditability in the Department of Defense. GAO-09-373. May 06, 2009.

Financial Management Systems: OMB's Financial Management Line of Business Initiative Continues but Future Success Remains Uncertain. GAO-09-328. May 07, 2009.

Regulation SHO: Recent Actions Appear to Have Initially Reduced Failures to Deliver, but More Industry Guidance Is Needed. GAO-09-483. May 12, 2009.

Aviation Security: TSA Has Completed Key Activities Associated with Implementing Secure Flight, but Additional Actions Are Needed to Mitigate Risks. GAO-09-29. May 13, 2009.

DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures Are Needed to Further Improve the Clearance Process. GAO-09-400. May 19, 2009.

Combating Nuclear Smuggling: DHS Improved Testing of Advanced Radiation Detection Portal Monitors, but Preliminary Results Show Limits of the New Technology. GAO-09-655. May 21, 2009.

Federal Contracting: Guidance on Award Fees Has Led to Better Practices but Is Not Consistently Applied. GAO-09-630. May 29, 2009.

Rebuilding Iraq: Improved Management Controls and Iraqi Commitment Needed for Key State and USAID Capacity-Building Programs. GAO-09-526. June 03, 2009.

Alaska Native Villages: Limited Progress Has Been Made on Relocating Villages Threatened by Flooding and Erosion. GAO-09-551. June 03, 2009.

Influenza Pandemic: Increased Agency Accountability Could Help Protect Federal Employees Serving the Public in the Event of a Pandemic. GAO-09-404. June 12, 2009.

Hurricanes Gustav and Ike Disaster Assistance: FEMA Strengthened Its Fraud Prevention Controls, but Customer Service Needs Improvement. GAO-09-671. June 19, 2009.

Gulf Coast Disaster Recovery: Community Development Block Grant Program Guidance to States Needs to Be Improved. GAO-09-541. June 19, 2009.

Contract Management: Minimal Compliance with New Safeguards for Time-and-Materials Contracts for Commercial Services and Safeguards Have Not Been Applied to GSA Schedules Program. GAO-09-579. June 24, 2009.

District of Columbia Public Schools: Important Steps Taken to Continue Reform Efforts, But Enhanced Planning Could Improve Implementation and Sustainability. GAO-09-619. June 26, 2009.

Information Technology: Federal Agencies Need to Strengthen Investment Board Oversight of Poorly Planned and Performing Projects. GAO-09-566. June 30, 2009.

Highway Trust Fund Expenditures on Purposes Other than Construction and Maintenance of Highways and Bridges during Fiscal Years 2004-2008. GAO-09-729. June 30, 2009.

Biosafety Laboratories: BSL-4 Laboratories Improved Perimeter Security Despite Limited Action by CDC. GAO-09-851. July 07, 2009.

Recovery Act: States' and Localities' Current and Planned Uses of Funds While Facing Fiscal Stresses. GAO-09-829. July 08, 2009.

Disaster Assistance: Greater Coordination and an Evaluation of Programs' Outcomes Could Improve Disaster Case Management. GAO-09-561. July 08, 2009.

Hurricane Katrina: Federal Grants Have Helped Health Care Organizations Provide Primary Care, but Challenges Remain. GAO-09-588. July 13, 2009.

Hurricane Katrina: Barriers to Mental Health Services for Children Persist in Greater New Orleans, Although Federal Grants Are Helping to Address Them. GAO-09-563. July 13, 2009.

U.S. Postal Service: Mail Delivery Efficiency Has Improved, but Additional Actions Needed to Achieve Further Gains. GAO-09-696. July 15, 2009.

State Department: Key Transformation Practices Could Have Helped in Restructuring Arms Control and Nonproliferation Bureaus. GAO-09-738. July 15, 2009.

Grants Management: Grants.gov Has Systematic Weaknesses That Require Attention. GAO-09-589. July 15, 2009.

Information Security: Agencies Continue to Report Progress, but Need to Mitigate Persistent Weaknesses. GAO-09-546. July 17, 2009.

Project Bioshield: HHS Can Improve Agency Internal Controls for Its New Contracting Authorities. GAO-09-820. July 21, 2009.

Improper Payments: Significant Improvements Needed in DOD's Efforts to Address Improper Payment and Recovery Auditing Requirements. GAO-09-442. July 29, 2009.

Homeland Security: Federal Protective Service Should Improve Human Capital Planning and Better Communicate with Tenants. GAO-09-749. July 30, 2009.

Disaster Recovery: Experiences from Past Disasters Offer Insights for Effective Collaboration after Catastrophic Events. GAO-09-811. July 31, 2009.

Contingency Contract Management: DOD Needs to Develop and Finalize Background Screening and Other Standards for Private Security Contractors. GAO-09-351. July 31, 2009.

Equal Employment Opportunity: Pilot Projects Could Help Test Solutions to Long-standing Concerns with the EEO Complaint Process. GAO-09-712. August 12, 2009.

Results-Oriented Management: Strengthening Key Practices at FEMA and Interior Could Promote Greater Use of Performance Information. GAO-09-676. August 17, 2009.

Emergency Communications: National Communications System Provides Programs for Priority Calling, but Planning for New Initiatives and Performance Measurement Could be Strengthened. GAO-09-822. August 28, 2009.

Disaster Housing: FEMA Needs More Detailed Guidance and Performance Measures to Help Ensure Effective Assistance after Major Disasters. GAO-09-796. August 28, 2009.

Medicaid: Fraud and Abuse Related to Controlled Substances Identified in Selected States. GAO-09-957. September 09, 2009.

Homeland Defense: U.S. Northern Command Has a Strong Exercise Program, but Involvement of Interagency Partners and States Can Be Improved. GAO-09-849. September 09, 2009.

Fannie Mae and Freddie Mac: Analysis of Options for Revising the Housing Enterprises' Longterm Structures. GAO-09-782. September 10, 2009.

Information Security: Concerted Effort Needed to Improve Federal Performance Measures. GAO-09-617. September 14, 2009.

Department of State: Comprehensive Plan Needed to Address Persistent Foreign Language Shortfalls. GAO-09-955. September 17, 2009.

Department of State: Additional Steps Needed to Address Continuing Staffing and Experience Gaps at Hardship Posts. GAO-09-874. September 17, 2009.

High-Containment Laboratories: National Strategy for Oversight Is Needed. GAO-09-574. September 21, 2009.

Credit Cards: Fair Debt Collection Practices Act Could Better Reflect the Evolving Debt Collection Marketplace and Use of Technology. GAO-09-748. September 21, 2009.

Recovery Act: Funds Continue to Provide Fiscal Relief to States and Localities, While Accountability and Reporting Challenges Need to Be Fully Addressed. GAO-09-1016. September 23, 2009.

DCAA Audits: Widespread Problems with Audit Quality Require Significant Reform. GAO-09-468. September 23, 2009.

Continuing Resolutions: Uncertainty Limited Management Options and Increased Workload in Selected Agencies. GAO-09-879. September 24, 2009.

Contingency Contracting: DOD, State, and USAID Continue to Face Challenges in Tracking Contractor Personnel and Contracts in Iraq and Afghanistan. GAO-10-1. October 01, 2009.

Homeland Defense: Planning, Resourcing, and Training Issues Challenge DOD's Response to Domestic Chemical, Biological, Radiological, Nuclear, and High-Yield Explosive Incidents. GAO-10-123. October 07, 2009.

Information Technology: Agencies Need to Improve the Implementation and Use of Earned Value Techniques to Help Manage Major System Acquisitions. GAO-10-2. October 08, 2009.

Centers for Medicare and Medicaid Services: Deficiencies in Contract Management Internal Control Are Pervasive. GAO-10-60. October 23, 2009.

Human Capital: Monitoring of Safeguards and Addressing Employee Perceptions Are Key to Implementing a Civilian Performance Management System in DOD. GAO-10-102. October 28, 2009.

Public Safety Officers' Benefits Program: Performance Measurement Would Strengthen Accountability and Enhance Awareness Among Potential Claimants. GAO-10-5. October 29, 2009.

Supply Chain Security: Feasibility and Cost-Benefit Analysis Would Assist DHS and Congress in Assessing and Implementing the Requirement to Scan 100 Percent of U.S.-Bound Containers. GAO-10-12. October 30, 2009.

State Department: Diplomatic Security's Recent Growth Warrants Strategic Review. GAO-10-156. November 12, 2009.

2010 Census: Census Bureau Has Made Progress on Schedule and Operational Control Tools, but Needs to Prioritize Remaining System Requirements. GAO-10-59. November 13, 2009.

UN Office for Project Services: Management Reforms Proceeding but Effectiveness Not Assessed, and USAID's Oversight of Grants Has Weaknesses. GAO-10-168. November 19, 2009.

Recovery Act: Recipient Reported Jobs Data Provide Some Insight into Use of Recovery Act Funding, but Data Quality and Reporting Issues Need Attention. GAO-10-223. November 19, 2009.

Department of Homeland Security: Actions Taken Toward Management Integration, but a Comprehensive Strategy Is Still Needed. GAO-10-131. November 20, 2009.

Program Evaluation: A Variety of Rigorous Methods Can Help Identify Effective Interventions. GAO-10-30. November 23, 2009.

Financial Management Systems: DHS Faces Challenges to Successfully Consolidating Its Existing Disparate Systems. GAO-10-76. December 04, 2009.

Formula Grants: Funding for the Largest Federal Assistance Programs Is Based on Census-Related Data and Other Factors. GAO-10-263. December 15, 2009.

Biosurveillance: Developing a Collaboration Strategy Is Essential to Fostering Interagency Data and Resource Sharing. GAO-10-171. December 18, 2009.

Disaster Assistance: Federal Assistance for Permanent Housing Primarily Benefited Homeowners; Opportunities Exist to Better Target Rental Housing Needs. GAO-10-17. January 14, 2010.

Results-Oriented Cultures: Office of Personnel Management Should Review Administrative Law Judge Program to Improve Hiring and Performance Management. GAO-10-14. January 15, 2010.

Recovery Act: IRS Quickly Implemented Tax Provisions, but Reporting and Enforcement Improvements Are Needed. GAO-10-349. February 10, 2010.

Recovery Act: One Year Later, States' and Localities' Uses of Funds and Opportunities to Strengthen Accountability. GAO-10-437. March 03, 2010.

Energy Star Program: Covert Testing Shows the Energy Star Program Certification Process Is Vulnerable to Fraud and Abuse. GAO-10-470. March 05, 2010.

Iraq: Iraqi Refugees and Special Immigrant Visa Holders Face Challenges Resettling in the United States and Obtaining U.S. Government Employment. GAO-10-274. March 09, 2010.

Information Security: Concerted Effort Needed to Consolidate and Secure Internet Connections at Federal Agencies. GAO-10-237. March 12, 2010.

Information Security: Agencies Need to Implement Federal Desktop Core Configuration Requirements. GAO-10-202. March 12, 2010.

Electronic Government: Implementation of the Federal Funding Accountability and Transparency Act of 2006. GAO-10-365. March 12, 2010.

Homeland Defense: DOD Needs to Take Actions to Enhance Interagency Coordination for Its Homeland Defense and Civil Support Missions. GAO-10-364. March 30, 2010.

Homeland Defense: DOD Can Enhance Efforts to Identify Capabilities to Support Civil Authorities during Disasters. GAO-10-386. March 30, 2010.

Disaster Recovery: FEMA's Long-term Assistance Was Helpful to State and Local Governments but Had Some Limitations. GAO-10-404. March 30, 2010.

2009 Lobbying Disclosure: Observations on Lobbyists' Compliance with Disclosure Requirements. GAO-10-499. April 01, 2010.

U.S. Postal Service: Strategies and Options to Facilitate Progress toward Financial Viability. GAO-10-455. April 12, 2010.

Contingency Contracting: Improvements Needed in Management of Contractors Supporting Contract and Grant Administration in Iraq and Afghanistan. GAO-10-357. April 12, 2010.

Homeland Security: Federal Protective Service's Contract Guard Program Requires More Oversight and Reassessment of Use of Contract Guards. GAO-10-341. April 13, 2010.

International Security: DOD and State Need to Improve Sustainment Planning and Monitoring and Evaluation for Section 1206 and 1207 Assistance Programs. GAO-10-431. April 15, 2010.

Domestic Food Assistance: Complex System Benefits Millions, but Additional Efforts Could Address Potential Inefficiency and Overlap among Smaller Programs. GAO-10-346. April 15, 2010.

Language Access: Selected Agencies Can Improve Services to Limited English Proficient Persons. GAO-10-91. April 26, 2010.

Nuclear Safety: Convention on Nuclear Safety Is Viewed by Most Member Countries as Strengthening Safety Worldwide. GAO-10-489. April 29, 2010.

Contracting Strategies: Data and Oversight Problems Hamper Opportunities to Leverage Value of Interagency and Enterprise-wide Contracts. GAO-10-367. April 29, 2010.

Streamlining Government: Opportunities Exist to Strengthen OMB's Approach to Improving Efficiency. GAO-10-394. May 07, 2010.

Recovery Act: States' and Localities' Uses of Funds and Actions Needed to Address Implementation Challenges and Bolster Accountability. GAO-10-604. May 26, 2010.

Information Security: Federal Guidance Needed to Address Control Issues with Implementing Cloud Computing. GAO-10-513. May 27, 2010.

Department of Homeland Security: DHS Needs to Comprehensively Assess Its Foreign Language Needs and Capabilities and Identify Shortfalls. GAO-10-714. June 22, 2010.

Social Security Administration: Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments. GAO-10-444. June 25, 2010.

Personnel Practices: Conversions of Employees from Political to Career Positions May 2005-May 2009. GAO-10-688. June 28, 2010.

Foreign Assistance: USAID Needs to Improve Its Strategic Planning to Address Current and Future Workforce Needs. GAO-10-496. June 30, 2010.

Biosurveillance: Efforts to Develop a National Biosurveillance Capability Need a National Strategy and a Designated Leader. GAO-10-645. June 30, 2010.

Afghanistan Development: Enhancements to Performance Management and Evaluation Efforts Could Improve USAID's Agricultural Programs. GAO-10-368. July 14, 2010.

Information Technology: OMB's Dashboard Has Increased Transparency and Oversight, but Improvements Needed. GAO-10-701. July 16, 2010.

Border Security: CBP Lacks the Data Needed to Assess the FAST Program at U.S. Northern Border Ports. GAO-10-694. July 19, 2010.

Military Naturalizations: USCIS Generally Met Mandated Processing Deadlines, but Processing Applicants Deployed Overseas Is a Challenge. GAO-10-865. July 29, 2010.

Hurricane Recovery: Federal Government Provided a Range of Assistance to Nonprofits following Hurricanes Katrina and Rita. GAO-10-800. July 30, 2010.

Homeland Security: Addressing Weaknesses with Facility Security Committees Would Enhance Protection of Federal Facilities. GAO-10-901. August 05, 2010.

Privacy: OPM Should Better Monitor Implementation of Privacy-Related Policies and Procedures for Background Investigations. GAO-10-849. September 07, 2010.

Financial Management Systems: Experience with Prior Migration and Modernization Efforts Provides Lessons Learned for New Approach. GAO-10-808. September 08, 2010.

Contractor Integrity: Stronger Safeguards Needed for Contractor Access to Sensitive Information. GAO-10-693. September 10, 2010.

Iraqi-U.S. Cost-Sharing: Iraq Has a Cumulative Budget Surplus, Offering the Potential for Further Cost-Sharing. GAO-10-304. September 13, 2010.

Recovery Act: Opportunities to Improve Management and Strengthen Accountability over States' and Localities' Uses of Funds. GAO-10-999. September 20, 2010.

Public Transit Security Information Sharing: DHS Could Improve Information Sharing through Streamlining and Increased Outreach. GAO-10-89. September 22, 2010.

Child Care and Development Fund: Undercover Tests Show Five State Programs Are Vulnerable to Fraud and Abuse. GAO-10-1062. September 22, 2010.

Head Start: Undercover Testing Finds Fraud and Abuse at Selected Head Start Centers. GAO-10-1049. September 28, 2010.

Information Sharing: Federal Agencies Are Helping Fusion Centers Build and Sustain Capabilities and Protect Privacy, but Could Better Measure Results. GAO-10-972. September 29, 2010.

U.S. Employment in the United Nations: State Department Needs to Enhance Reporting Requirements and Evaluate Its Efforts to Increase U.S. Representation. GAO-10-102. September 30, 2010.

Iraq and Afghanistan: DOD, State, and USAID Face Continued Challenges in Tracking Contracts, Assistance Instruments, and Associated Personnel. GAO-11-1. October 01, 2010.

DOD Business Transformation: Improved Management Oversight of Business System Modernization Efforts Needed. GAO-11-53. October 07, 2010.

Managing For Results: Opportunities to Strengthen Agencies' Customer Service Efforts. GAO-11-44. October 27, 2010.

Live Animal Imports: Agencies Need Better Collaboration to Reduce the Risk of Animal-Related Diseases. GAO-11-9. November 08, 2010.

National Security: An Overview of Professional Development Activities Intended to Improve Interagency Collaboration. GAO-11-108. November 15, 2010.

Afghanistan Development: U.S. Efforts to Support Afghan Water Sector Increasing, but Improvements Needed in Planning and Coordination. GAO-11-138. November 15, 2010.

District of Columbia Public Education: Agencies Have Enhanced Internal Controls Over Federal Payments for School Improvement, But More Consistent Monitoring Needed. GAO-11-16. November 18, 2010.

Border Security: Additional Actions Needed to Better Ensure a Coordinated Federal Response to Illegal Activity on Federal Lands. GAO-11-177. November 18, 2010.

Displaced Iraqis: Integrated International Strategy Needed to Reintegrate Iraq's Internally Displaced and Returning Refugees. GAO-11-12. December 02, 2010.

2010 Census: Key Efforts to Include Hard-to-Count Populations Went Generally as Planned; Improvements Could Make the Efforts More Effective for Next Census. GAO-11-45. December 14, 2010.

2010 Census: Follow-up Should Reduce Coverage Errors, but Effects on Demographic Groups Need to Be Determined. GAO-11-154. December 14, 2010.

2010 Census: Data Collection Operations Were Generally Completed as Planned, but Longstanding Challenges Suggest Need for Fundamental Reforms. GAO-11-193. December 14, 2010.

Recovery Act: Head Start Grantees Expand Services, but More Consistent Communication Could Improve Accountability and Decisions about Spending. GAO-11-166. December 15, 2010.

Federal Work/Life Programs: Agencies Generally Satisfied with OPM Assistance, but More Tracking and Information Sharing Needed. GAO-11-137. December 16, 2010.

Public Health Information Technology: Additional Strategic Planning Needed to Guide HHS's Efforts to Establish Electronic Situational Awareness Capabilities. GAO-11-99. December 17, 2010.

Border Security: Enhanced DHS Oversight and Assessment of Interagency Coordination Is Needed for the Northern Border. GAO-11-97. December 17, 2010.

VI. OFFICIAL COMMUNICATIONS

During the 111th Congress, 964 official communications were referred to the Committee. Of these, 957 were Executive Communications, six were Petitions or Memorials, and one was a Presidential Message. Of the official communications, 440 dealt with the District of Columbia.

VII. LEGISLATIVE ACTIONS

During the 111th Congress, the Committee reported significant legislation that was approved by Congress and signed into law by the President.

The following are brief legislative histories of measures to the Committee and, in some cases, drafted by the Committee, which (1) became public law or (2) were favorably reported from the Committee and passed by the Senate, but did not become law. In addition to the measures listed below, the Committee received during the 111th Congress numerous legislative proposals that were not considered or reported, or that were reported but not passed by the Senate. Additional information on these measures appear in the Committee's Legislative Calendar for the 111th Congress, S. Prt. 111-63, (December 31, 2011).

MEASURES ENACTED INTO LAW

The following measures considered by the Committee were enacted into Public Law. The descriptions following the signing date of each measure note selected provisions of the text, and are not intended to serve as section-by-section summaries.

H.R. 553.—To require the Secretary of Homeland Security to develop a strategy to prevent the over-classification of homeland security and other information and to promote the sharing of unclassified homeland security and other information, and for other purposes. (Public Law 111–258). October 7, 2010.

Amends the Homeland Security Act of 2002 (HSA) to direct the Secretary of Homeland Security (DHS) to designate a Classified Information Advisory Officer to develop and disseminate educational materials and to develop and administer training programs to assist state, local, and tribal governments (including law enforcement agencies) and private sector entities: (1) in developing plans and policies to respond to requests related to classified information without communicating such information to individuals who lack appropriate security clearances; (2) regarding the appropriate procedures for challenging classification designations of information received by personnel of such entities; and (3) on the means by which such personnel may apply for security clearances. Directs such Officer to inform the Under Secretary for Intelligence and Analysis on policies and procedures that could facilitate the sharing of classified information with such personnel.

H.R. 730.—To strengthen efforts in the Department of Homeland Security to develop nuclear forensics capabilities to permit attribution of the source of nuclear material, and for other purposes. (Public Law 111–140). February 16, 2010.

Expresses the sense of Congress that the President should: (1) pursue bilateral and multilateral international agreements to establish an international framework for determining the source of any confiscated nuclear or radiological material or weapon, as well as the source of any detonated weapon and the nuclear or radiological material used in such a weapon; (2) develop protocols for the data exchange and dissemination of sensitive information relating to nuclear or radiological materials and samples of controlled nuclear or radiological materials to the extent required by such agreements; and (3) develop expedited protocols for the data exchange and dissemination of sensitive information needed to publicly identify the source of a nuclear detonation.

H.R. 1454.—To provide for the issuance of a Multinational Species Conservation Funds Semipostal Stamp. (Public Law 111–241). September 30, 2010.

Requires the United States Postal Service to issue and sell, at a premium, a Multinational Species Conservation Funds Semipostal Stamp. Requires the use of such a stamp to be voluntary on the part of postal patrons.

H.R. 1517.—To allow certain U.S. Customs and Border Protection employees who serve under an overseas limited appointment for at least 2 years, and whose service is rated fully successful or higher throughout that time, to be converted to a permanent appointment in the competitive service. (Public Law 111–252). October 5, 2010.

Authorizes the Commissioner of U.S. Customs and Border Protection (CBP) to convert an employee serving under an overseas limited appointment for at least 2 years of current continuous service, whose service is rated at least fully successful throughout that time, to a permanent appointment in the competitive service.

H.R. 1722.—To require the head of each executive agency to establish and implement a policy under which employees shall be authorized to telework, and for other purposes. (Public Law 111–292). December 9, 2010.

Requires the head of each executive agency to: (1) establish a policy under which eligible agency employees may be authorized to telework; (2) determine employee eligibility to participate in telework; and (3) notify all employees of their eligibility to telework.

H.R. 1746.—To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the pre-disaster mitigation program of the Federal Emergency Management Agency. (Public Law 111–351). January 4, 2011.

Amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to: (1) increase the amount guaranteed to each State under the predisaster hazard mitigation program to \$575,000; (2) require the President to award financial assistance under the program on a competitive basis; (3) eliminate the current termination date for such program (September 30, 2010); and (4) authorize appropriations for the program through FY2013.

H.R. 2142.—To require quarterly performance assessments of Government programs for purposes of assessing agency performance and improvement, and to establish agency performance improvement officers and the Performance Improvement Council. (Public Law 111–352). January 4, 2011.

Requires the Director of OMB to coordinate with agencies to develop a Federal Government performance plan, which shall be submitted with the annual Federal budget and concurrently made available on an OMB Web site of agency programs. Requires such plan to: (1) establish government performance goals for the current and next fiscal years; (2) identify activities, entities, and policies contributing to each goal; (3) identify a lead government official responsible for coordinating efforts to achieve the goal; (4) establish common Federal Government performance indicators with quarterly targets; (5) establish clearly defined quarterly milestones; and (6) identify major management challenges and plans to address such challenges. Directs each agency to make its annual performance plan available on its public Web site and notify the President and Congress by the first Monday in February.

H.R. 2711.—An act to amend title 5, United States Code, to provide for the transportation and moving expenses for the immediate family of certain Federal employees who die in the performance of their duties. (Public Law 111–178). June 9, 2010.

Authorizes the head of the concerned agency to pay the transportation (including one privately owned motor vehicle) and moving expenses attributable to a change of residence within the United States of the immediate family of a covered employee, including any Federal law enforcement officer, Federal Bureau of Investigation employee, or customs and border protection officer, who dies as a result of personal injury sustained while in the performance of duties, as well as expenses of preparing and transporting the re-

mains of the deceased to the place where the family will reside following the employee's death (or another appropriate place for interment).

H.R. 3978.—An act to amend the Homeland Security Act of 2002 to authorize the Secretary of Homeland Security to accept and use gifts for otherwise authorized activities of the Center for Domestic Preparedness that are related to preparedness for a response to terrorism, and for other purposes. (Public Law 111–245). September 30, 2010.

Amends the Homeland Security Act of 2002 to: (1) authorize the Secretary of Homeland Security (DHS) to accept gifts of property and services for otherwise authorized activities of the Center for Domestic Preparedness that are related to efforts to prevent, prepare for, protect against, or respond to a natural disaster, act of terrorism, or other man-made disaster; (2) prohibit the Secretary from accepting a gift upon determining that the use of the property or services would compromise the integrity or appearance of integrity of a DHS program or an individual involved in a DHS program; and (3) require the Secretary to report to Congress annually disclosing such gifts, how they contribute to the Center's mission, and the amount of Federal savings generated.

H.R. 3980.—To provide for identifying and eliminating redundant reporting requirements and developing meaningful performance metrics for homeland security preparedness grants, and for other purposes. (Public Law 111–271). October 12, 2010.

Amends the Homeland Security Act of 2002 to direct the Administrator of the Federal Emergency Management Agency to submit to the appropriate congressional committees not later than 90 days after this Act's enactment a report that includes: (1) an assessment of redundant reporting requirements imposed by the Administrator on state, local, and tribal governments in connection with the awarding of covered grants; (2) a plan for eliminating any redundant and unnecessary reporting requirements identified; and (3) a plan for promptly developing a set of quantifiable performance measures and metrics to assess the effectiveness of the programs under which the grants are awarded.

H.R. 4621.—To protect the integrity of the constitutionally-mandated United States census and prohibit deceptive mail practices that attempt to exploit the decennial census. (Public Law 111–155). April 7, 2010.

Declares matter that bears the term “census” on its envelope, outside cover, or wrapper, but that constitutes a solicitation by a nongovernmental entity, to be nonmailable by the United States Postal Service, unless: (1) it satisfies one of the exceptions specified for otherwise nonmailable matter under existing law (such as displaying an appropriate disclaimer); and (2) its envelope, outside cover, or wrapper bears on its face an accurate return address including the name of the entity that sent it.

H.R. 5148.—To amend title 39, United States Code, to clarify the instances in which the term “census” may appear on mailable matter. (Public Law 111–170). May 24, 2010.

Requires, in order to not be disposed of by the U.S. Postal Service, any mailing soliciting the purchase of a product or service or soliciting information or the contribution of funds or membership fees that has the word “census” visible through the envelope, or

outside cover or wrapper, to include: (1) the accurate name and return address of the entity sending the mailing; and (2) a notice that the mailing is not affiliated with the Federal Government.

S. 615.—A bill to provide additional personnel authorities for the Special Inspector General for Afghanistan Reconstruction. (Public Law 111–38). June 30, 2009.

Amends the National Defense Authorization Act for Fiscal Year 2008 to authorize the Special Inspector General for Afghanistan Reconstruction to exercise certain employment and employment-related authorities currently permitted for the heads of temporary organizations established by law or executive order.

S. 692.—A bill to provide that claims of the United States to certain documents relating to Franklin Delano Roosevelt shall be treated as waived and relinquished in certain circumstances. (Public Law 111–138). February 1, 2010.

Requires any claim of the United States to certain property relating to Franklin Delano Roosevelt, his family, or staff to be treated as having been waived and relinquished on the day before any person makes a gift of such property to the National Archives and Records Administration.

S. 1508.—A bill to amend the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note) in order to prevent the loss of billions in taxpayer dollars. (Public Law 111–204). July 22, 2010.

Amends the Improper Payments Information Act of 2002 to expand requirements for identifying programs and activities susceptible to improper payments by requiring the head of each Federal agency, during the year after the enactment of this Act and at least once every 3 fiscal years thereafter, to review and identify agency programs and activities that may be susceptible to significant improper payments. Defines “significant” to mean: (1) improper payments in the preceding fiscal year that may have exceeded \$100 million or \$10 million of all program and activity payments and 2.5% of program outlays; and (2) for fiscal years prior to FY2013, improper payments that may have exceeded \$100 million or \$10 million of all program and activity payments and 1.5% of program outlays.

S. 1510.—An act to transfer statutory entitlements to pay and hours of work authorized by laws codified in the District of Columbia Official Code for current members of the United States Secret Service Uniformed Division from such laws to the United States Code, and for other purposes. (Public Law 111–282). October 15, 2010.

Transfers statutory entitlements to pay and hours of work for members of the U.S. Secret Service Uniformed Division from laws codified in the District of Columbia Official Code to the United States Code. Authorizes the Secretary of Homeland Security (DHS) to: (1) fix and adjust basic pay rates for members of the U.S. Secret Service Uniformed Division; (2) determine what constitutes an acceptable level of competence; (3) establish and determine technician positions at the Officer and Sergeant ranks; and (4) determine the rate of basic pay of a member who is changed or demoted to a lower rank.

S. 1825.—A bill to extend the authority for relocation expenses test programs for Federal employees, and for other purposes. (Public Law 111–112). November 30, 2009.

Authorizes the Administrator of General Services to extend the authority for a relocation expenses test program for Federal employees upon the request of the agency administering the program. Requires each such agency to annually submit a report on the results of the program to the Administrator.

S. 1860.—A bill to permit each current member of the Board of Directors of the Office of Compliance to serve for 3 terms. (Public Law 111–114). December 14, 2009.

Authorizes any individual serving as a member of the Board of Directors of the Office of Compliance as of September 30, 2009, to serve for three terms.

S. 2865.—A bill to reauthorize the Congressional Award Act (2 U.S.C. 801 et seq.), and for other purposes. (Public Law 111–200). July 7, 2010.

Amends the Congressional Award Act to revise requirements for appointment and reappointment of members of the Congressional Award Board, especially the limitation of service on the Board to two consecutive terms. Allows the Board to accept funds to carry out its functions and make expenditures that are awarded in any grant program administered by a Federal agency.

S. 2868.—An Act to provide increased access to the Federal supply schedules of the General Services Administration to the American Red Cross, other qualified organizations, and State and local governments. (Public Law 111–263). October 8, 2010.

Authorizes the Administrator of General Services to provide for the use of Federal supply schedules by the American National Red Cross and other qualified organizations (as described in the Robert T. Stafford Disaster Relief and Emergency Assistance Act) in furtherance of purposes determined to be appropriate to facilitate emergency preparedness and disaster relief. Prohibits use of such authority to purchase supplies for resale.

S. 3196.—A bill to amend the Presidential Transition Act of 1963 to provide that certain transition services shall be available to eligible candidates before the general election. (Public Law 111–283). October 15, 2010.

Amends the Presidential Transition Act of 1963 to direct the Administrator of the General Services Administration to provide certain presidential transition services and facilities, including office space, equipment, and payment of certain related expenses, to eligible presidential and vice-presidential candidates before a presidential general election. Directs the President, or the President's delegate, to take necessary and appropriate actions to plan and coordinate activities by the Executive Branch of the Federal Government to facilitate an efficient transfer of power to a successor President.

S. 3243.—To require U.S. Customs and Border Protection to administer polygraph examinations to all applicants for law enforcement positions with U.S. Customs and Border Protection, to require U.S. Customs and Border Protection to initiate all periodic background reinvestigations of certain law enforcement personnel, and for other purposes. (Public Law 111–376). January 4, 2011.

Requires the Secretary of Homeland Security (DHS) to ensure that: (1) by not later than 2 years after enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection receive polygraph examinations before being

hired for such positions; and (2) by not later than 180 days after enactment of this Act, CBP initiates all periodic background re-investigations for all of its law enforcement personnel.

S. 3794.—A bill to amend chapter 5 of title 40, United States Code, to include organizations whose membership comprises substantially veterans as recipient organizations for the donation of Federal surplus personal property through State agencies. (Public Law 111–338). December 22, 2010.

Authorizes the transfer of Federal surplus property to a State agency for distribution through donation within the State for purposes of education or public health for organizations whose membership comprises substantially veterans and whose representatives are recognized by the Secretary of Veterans Affairs (VA) in the preparation, presentation, and prosecution of claims under laws administered by the Secretary.

POSTAL NAMING BILLS

H.R. 663.—To designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the “Yvonne Ingram-Ephraim Post Office Building.” (Public Law 111–26). June 19, 2009.

H.R. 774.—To designate the facility of the United States Postal Service located at 46–02 21st Street in Long Island City, New York, as the “Geraldine Ferraro Post Office Building.” (Public Law 111–50). August 19, 2009.

H.R. 918.—To designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the “Stan Lundine Post Office Building.” (Public Law 111–27). June 19, 2009.

H.R. 955.—To designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the “John ‘Bud’ Hawk Post Office.” (Public Law 111–99). November 30, 2009.

H.R. 987.—To designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the “John Scott Challis, Jr. Post Office.” (Public Law 111–51). August 19, 2009.

H.R. 1271.—To designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the “Elijah Pat Larkins Post Office Building.” (Public Law 111–52). August 19, 2009.

H.R. 1284.—To designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the “Major Ed W. Freeman Post Office.” (Public Law 111–28). June 19, 2009.

H.R. 1397.—To designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the “Caroline O’Day Post Office Building.” (Public Law 111–54). August 19, 2009.

H.R. 1516.—To designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the “Sergeant Marcus Mathes Post Office.” (Public Law 111–100). November 30, 2009.

H.R. 1595.—To designate the facility of the United States Postal Service located at 3245 Latta Road in Rochester, New York, as the

“Brian K. Schramm Post Office Building.” (Public Law 111–29). June 19, 2009.

H.R. 1713.—To name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley “Wes” Watkins. (Public Law 111–101). November 30, 2009.

H.R. 1817.—To designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the “John S. Wilder Post Office Building.” (Public Law 111–128). January 29, 2010.

H.R. 2004.—To designate the facility of the United States Postal Service located at 4282 Beach Street in Akron, Michigan, as the “Akron Veterans Memorial Post Office.” (Public Law 111–102). November 30, 2009.

H.R. 2090.—To designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the “Frederic Remington Post Office Building.” (Public Law 111–55). August 19, 2009.

H.R. 2162.—To designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the “Herbert A Littleton Postal Station.” (Public Law 111–56). August 19, 2009.

H.R. 2215.—To designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the “John J. Shiven Post Office Building.” (Public Law 111–103). November 30, 2009.

H.R. 2325.—To designate the facility of the United States Postal Service located at 1300 Matamoros Street in Laredo, Texas, as the “Laredo Veterans Post Office.” (Public Law 111–57). August 19, 2009.

H.R. 2422.—To designate the facility of the United States Postal Service located at 2300 Scenic Drive in Georgetown, Texas, as the “Kile G. West Post Office Building.” (Public Law 111–58). August 19, 2009.

H.R. 2470.—To designate the facility of the United States Postal Service located at 19190 Cochran Boulevard FRNT in Port Charlotte, Florida, as the “Lieutenant Commander Roy H. Boehm Post Office Building.” (Public Law 111–59). August 19, 2009.

H.R. 2760.—To designate the facility of the United States Postal Service located at 1615 North Wilcox Avenue in Los Angeles, California, as the “Johnny Grant Hollywood Post Office Building.” (Public Law 111–104). November 30, 2009.

H.R. 2877.—To designate the facility of the United States Postal Service located at 76 Brookside Avenue in Chester, New York, as the “1st Lieutenant Louis Allen Post Office.” (Public Law 111–129). January 29, 2010.

H.R. 2972.—To designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the “Conrad DeRouen, Jr. Post Office.” (Public Law 111–105). November 30, 2009.

H.R. 3072.—To designate the facility of the United States Postal Service located at 9810 Halls Ferry Road in St. Louis, Missouri, as

the “Coach Jodie Bailey Post Office Building.” (Public Law 111–130). January 29, 2010.

H.R. 3119.—To designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the “Lim Poon Lee Post Office.” (Public Law 111–106). November 30, 2009.

H.R. 3250.—To designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the “Private First Class Garfield M. Langhorn Post Office Building.” (Public Law 111–179). June 9, 2010.

H.R. 3319.—To designate the facility of the United States Postal Service located at 440 South Gulling Street in Portola, California, as the “Army Specialist Jeremiah Paul McCleery Post Office Building.” (Public Law 111–131). January 29, 2010.

H.R. 3386.—To designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the “Iraq and Afghanistan Veterans Memorial Post Office.” (Public Law 111–107). November 30, 2009.

H.R. 3539.—To designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the “Patricia D. McGinty-Juhl Post Office Building.” (Public Law 111–132). January 29, 2010.

H.R. 3547.—To designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the “Rex E. Lee Post Office Building.” (Public Law 111–108). November 30, 2009.

H.R. 3634.—To designate the facility of the United States Postal Service located at 109 Main Street in Swifton, Arkansas, as the “George Kell Post Office.” (Public Law 111–180). June 9, 2010.

H.R. 3667.—To designate the facility of the United States Postal Service located at 16555 Springs Street in White Springs, Florida, as the “Clyde L. Hillhouse Post Office Building.” (Public Law 111–133). January 29, 2010.

H.R. 3767.—To designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the “W. Hazen Hillyard Post Office Building.” (Public Law 111–134). January 29, 2010.

H.R. 3788.—To designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the “Corporal Joseph A. Tomci Post Office Building.” (Public Law 111–135). January 29, 2010.

H.R. 3892.—To designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the “E.V. Wilkins Post Office.” (Public Law 111–181). June 9, 2010.

H.R. 3951.—To designate the facility of the United States Postal Service located at 2000 Louisiana Avenue in New Orleans, Louisiana, as the “Roy Rondeno, Sr. Post Office Building.” (Public Law 111–193). June 28, 2010.

H.R. 4017.—To designate the facility of the United States Postal Service located at 43 Maple Avenue in Shrewsbury, Massachusetts, as the “Ann Marie Blute Post Office.” (Public Law 111–182). June 9, 2010.

H.R. 4095.—To designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as

the “Congresswoman Jan Meyers Post Office Building.” (Public Law 111–183). June 9, 2010.

H.R. 4139.—To designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the “Sergeant Matthew L. Ingram Post Office.” (Public Law 111–184). June 9, 2010.

H.R. 4214.—To designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the “Roy Wilson Post Office.” (Public Law 111–185). June 9, 2010.

H.R. 4238.—To designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the “W.D. Farr Post Office Building.” (Public Law 111–186). June 9, 2010.

H.R. 4425.—To designate the facility of the United States Postal Service located at 2–116th Street in North Troy, New York, as the “Martin G. ‘Marty’ Mahar Post Office.” (Public Law 111–187). June 9, 2010.

H.R. 4543.—To designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the “Anthony J. Cortese Post Office Building.” (Public Law 111–276). October 13, 2010.

H.R. 4547.—To designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the “Captain Luther H. Smith, U.S. Army Air Forces Post Office.” (Public Law 111–188). June 9, 2010.

H.R. 4602.—To designate the facility of the United States Postal Service located at 1332 Sharon Copley Road in Sharon Center, Ohio, as the “Emil Bolas Post Office.” (Public Law 111–355). January 4, 2011.

H.R. 4628.—To designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the “Sergeant Christopher R. Hrbek Post Office Building.” (Public Law 111–189). June 9, 2010.

H.R. 4840.—An act to designate the facility of the United States Postal Service located at 1981 Cleveland Avenue in Columbus, Ohio, as the “Clarence D. Lumpkin Post Office.” (Public Law 111–208). July 27, 2010.

H.R. 4861.—To designate the facility of the United States Postal Service located at 1343 West Irving Park Road in Chicago, Illinois, as the “Steve Goodman Post Office Building.” (Public Law 111–217). August 3, 2010.

H.R. 5051.—To designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the “Zachary Smith Post Office Building.” (Public Law 111–218). August 3, 2010.

H.R. 5099.—To designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the “Michael C. Rothberg Post Office.” (Public Law 111–219). August 3, 2010.

H.R. 5133.—To designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the “Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building.” (Public Law 111–359). January 4, 2011.

H.R. 5278.—To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the “President Ronald W. Reagan Post Office Building.” (Public Law 111–235). August 16, 2010.

H.R. 5341.—To designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the “Joyce Rogers Post Office Building.” (Public Law 111–277). October 13, 2010.

H.R. 5390.—To designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the “David John Donafee Post Office Building.” (Public Law 111–278). October 13, 2010.

H.R. 5395.—To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the “Paula Hawkins Post Office Building.” (Public Law 111–236). August 16, 2010.

H.R. 5450.—To designate the facility of the United States Postal Service located at 3894 Crenshaw Boulevard in Los Angeles, California, as the “Tom Bradley Post Office Building.” (Public Law 111–279). October 13, 2010.

H.R. 5605.—To designate the facility of the United States Postal Service located at 47 East Fayette Street in Uniontown, Pennsylvania, as the “George C. Marshall Post Office.” (Public Law 111–361). January 4, 2011.

H.R. 5606.—To designate the facility of the United States Postal Service located at 47 South 7th Street in Indiana, Pennsylvania, as the “James M. ‘Jimmy’ Stewart Post Office Building.” (Public Law 111–362). January 4, 2011.

H.R. 5655.—To designate the Little River Branch facility of the United States Postal Service located at 140 NE 84th Street in Miami, Florida, as the “Jesse J. McCrary, Jr. Post Office.” (Public Law 111–363). January 4, 2011.

H.R. 5758.—To designate the facility of the United States Postal Service located at 2 Government Center in Fall River, Massachusetts, as the “Sergeant Robert Barrett Post Office Building.” (Public Law 111–300). December 14, 2010.

H.R. 5877.—To designate the facility of the United States Postal Service located at 655 Centre Street in Jamaica Plain, Massachusetts, as the “Lance Corporal Alexander Scott Arredondo, United States Marine Corps Post Office Building.” (Public Law 111–365). January 4, 2011.

H.R. 6118.—To designate the facility of the United States Postal Service located at 2 Massachusetts Avenue, NE, in Washington, D.C., as the “Dorothy I. Height Post Office.” (Public Law 111–310). December 15, 2010.

H.R. 6237.—To designate the facility of the United States Postal Service located at 1351 2nd Street in Napa, California, as the “Tom Kongsgaard Post Office Building.” (Public Law 111–304). December 14, 2010.

H.R. 6387.—To designate the facility of the United States Postal Service located at 337 West Clark Street in Eureka, California, as the “Sam Sacco Post Office Building.” (Public Law 111–305). December 14, 2010.

H.R. 6400.—To designate the facility of the United States Postal Service located at 111 North 6th Street in St. Louis, Missouri, as

the “Earl Wilson, Jr. Post Office.” (Public Law 111–368). January 4, 2011.

S. 234.—A bill to designate the facility of the United States Postal Service located at 2105 East Cook Street in Springfield, Illinois, as the “Colonel John H. Wilson, Jr. Post Office Building.” (Public Law 111–7). March 9, 2009.

S. 748.—A bill to redesignate the facility of the United States Postal Service located at 2777 Logan Avenue in San Diego, California, as the “Cesar E. Chavez Post Office.” (Public Law 111–109). November 30, 2009.

S. 1211.—A bill to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the “Jack F. Kemp Post Office Building.” (Public Law 111–110). November 30, 2009.

S. 1314.—A bill to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the “Dr. Martin Luther King, Jr. Post Office.” (Public Law 111–111). November 30, 2009.

S. 3567.—A bill to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the “Navy Corpsman Jeffrey L. Wiener Post Office Building.” (Public Law 111–288). November 30, 2009.

S. 3592.—A bill to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the “First Lieutenant Robert Wilson Collins Post Office Building.” (Public Law 111–379). January 4, 2011.ca

VIII. PRESIDENTIAL NOMINATIONS

The Committee received a total of 60 Presidential nominations during the 111th Congress. Of these, 39 were reported favorably and confirmed by the Senate, 12 were discharged from Committee and confirmed, 5 were withdrawn by the President, and 3 were not acted upon by the Committee. Hearing dates and reports on these nominations appear in Section IV.

The following 41 nominations were favorably reported by the Committee and confirmed by the Senate:

Jane Holl Lute, of New York, to be Deputy Secretary of Homeland Security, vice Paul A. Schneider, resigned. Confirmed April 3, 2009.

John Berry, of the District of Columbia, to be Director of the Office of Personnel Management for a term of four years, vice Linda M. Springer, resigned. Confirmed April 3, 2009.

John Morton, of Virginia, to be an Assistant Secretary of Homeland Security, vice Julie L. Myers, resigned. Confirmed May 12, 2009.

Ivan K. Fong, of Ohio, to be General Counsel, Department of Homeland Security, vice Philip J. Perry, resigned. Confirmed May 6, 2009.

William Craig Fugate, of Florida, to be Administrator of the Federal Emergency Management Agency, Department of Homeland Security, vice R. David Paulison. Confirmed May 12, 2009.

Marisa J. Demeo, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Rufus Gunn King, III, retired. Confirmed April 20, 2010.

Florence Y. Pan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Linda Turner Hamilton. Confirmed May 21, 2009.

Timothy W. Manning, of New Mexico, to be Deputy Administrator for National Preparedness, Federal Emergency Management Agency, Department of Homeland Security, vice Dennis R. Schrader. Confirmed May 6, 2009.

Cass R. Sunstein, of Massachusetts, to be Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, vice Susan E. Dudley. Confirmed September 10, 2009.

Rand Beers, of the District of Columbia, to be Under Secretary, Department of Homeland Security, vice Robert D. Jamison, resigned. Confirmed June 19, 2009.

David Heyman, of the District of Columbia, to be an Assistant Secretary of Homeland Security, vice Stewart A. Baker, resigned. Confirmed June 4, 2009.

Robert M. Groves, of Michigan, to be Director of the Census, vice Steven H. Murdock, resigned. Confirmed July 13, 2009.

Martha N. Johnson, of Maryland, to be Administrator of General Services, vice Lurita Alexis Doan, resigned. Confirmed February 4, 2010.

Tara Jeanne O'Toole, of Maryland, to be Under Secretary for Science and Technology, Department of Homeland Security, vice Jay M. Cohen, resigned. Confirmed November 4, 2009.

Christine M. Griffin, of Massachusetts, to be Deputy Director of the Office of Personnel Management, vice Howard Charles Weizmann, resigned. Confirmed July 31, 2009.

Jeffrey D. Zients, of the District of Columbia, to be Deputy Director for Management, Office of Management and Budget, vice Clay Johnson, III, resigned. Confirmed June 19, 2009.

Stuart Gordon Nash, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Rafael Diaz, term expired. Confirmed April 20, 2010.

Richard Serino, of Massachusetts, to be Deputy Administrator, Federal Emergency Management Agency, Department of Homeland Security, vice Harvey E. Johnson, Jr., resigned. Confirmed October 5, 2009.

David S. Ferriero, of North Carolina, to be Archivist of the United States, vice Allen Weinstein, resigned. Confirmed July 28, 2009.

Susan Tsui Grundmann, of Virginia, to be Chairman of the Merit Systems Protection Board, vice Neil McPhie. Confirmed November 5, 2009.

Susan Tsui Grundmann, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2016, vice Neil McPhie, term expired. Confirmed November 5, 2009.

Anne Marie Wagner, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2014, vice Barbara J. Sapin, resigned. Confirmed November 5, 2009.

Daniel I. Werfel, of Virginia, to be Controller, Office of Federal Financial Management, Office of Management and Budget, vice Linda Morrison Combs, resigned. Confirmed October 13, 2009.

Daniel I. Gordon, of the District of Columbia, to be Administrator for Federal Procurement Policy, vice Paul A. Denett. Confirmed November 21, 2009.

Elizabeth M. Harman, of Maryland, to be an Assistant Administrator of the Federal Emergency Management Agency, Department of Homeland Security, vice W. Ross Ashley, III, resigned. Confirmed March 3, 2010.

Alan C. Kessler, of Pennsylvania, to be a Governor of the United States Postal Service for a term expiring December 8, 2015. (Reappointment) Confirmed December 3, 2009.

Grayling Grant Williams, of Maryland, to be Director of the Office of Counternarcotics Enforcement, Department of Homeland Security, vice Uttam Dhillon, resigned. Confirmed December 24, 2009.

Milton C. Lee, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Jerry Stewart Byrd, retired. Confirmed June 22, 2010.

Dana Katherine Bilyeu, of Nevada, to be a Member of the Federal Retirement Thrift Investment Board for a term expiring October 11, 2011, vice Thomas A. Fink, term expired. Confirmed June 22, 2010.

Michael D. Kennedy, of Georgia, to be a Member of Federal Retirement Thrift Investment Board for a term expiring September 25, 2010, vice Gordon Whiting, term expired. Confirmed June 22, 2010.

Michael D. Kennedy, of Georgia, to be a Member of Federal Retirement Thrift Investment Board for a term expiring September 25, 2014. (Reappointment) Confirmed June 22, 2010.

Dennis P. Walsh, of Maryland, to be Chairman of the Special Panel on Appeals for a term of six years, vice John L. Howard, term expired. Confirmed June 22, 2010.

Dennis J. Toner, of Delaware, to be a Governor of the United States Postal Service for the remainder of the term expiring December 8, 2012, vice Katherine C. Tobin, resigned. Confirmed September 16, 2010.

Todd E. Edelman, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Cheryl M. Long, retired. Confirmed June 22, 2010.

Judith Anne Smith, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Geoffrey M. Alprin, retired. Confirmed June 22, 2010.

John S. Pistole, of Virginia, to be an Assistant Secretary of Homeland Security, vice Edmund S. Hawley, resigned. Confirmed June 25, 2010.

Maria Elizabeth Raffinan, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Odessa F. Vincent, retired. Confirmed September 29, 2010.

Jacob J. Lew, of New York, to be Director of the Office of Management and Budget, vice Peter R. Orszag, resigned. Confirmed November 18, 2010.

Eugene Louis Dodaro, of Virginia, to be Comptroller General of the United States for a term of fifteen years, vice David M. Walker, resigned. Confirmed December 22, 2010.

The following nomination was favorably reported by the Committee but not acted upon by the Senate. It was returned to the President under provisions of Senate Rule XXXI, paragraph 6, of the Standing Rules of the Senate:

Jonathan Andrew Hatfield, of Virginia, to be Inspector General, Corporation for National and Community Service, vice Gerald Walpin, resigned. Returned December 22, 2010.

The following five nominations were withdrawn by the President:

Paul Steven Miller, of Washington, to be a Governor of the United States Postal Service for a term expiring December 8, 2016, vice Carolyn L. Gallagher, term expired. Withdrawn June 8, 2010.

Erroll G. Southers, of California, to be an Assistant Secretary of Homeland Security, vice Edmund S. Hawley, resigned. Withdrawn January 21, 2010.

Richard Serino, of Massachusetts, to be Deputy Administrator and Chief Operating Officer, Federal Emergency Management Agency, Department of Homeland Security, vice Harvey E. Johnson, Jr., resigned. Withdrawn July 27, 2009.

Alexander G. Garza, of Missouri, to be Assistant Secretary for Health Affairs and Chief Medical Officer, Department of Homeland Security, vice Jeffrey William Runge. Withdrawn July 27, 2009.

Stuart Gordon Nash, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years, vice Rufus Gunn King, III, retired. Withdrawn March 24, 2009.

The following three nominations were not acted upon by the Committee. Each was returned to the President under provisions of Senate Rule XXXI, paragraph 6, of the Standing Rules of the Senate:

Carolyn N. Lerner, of Maryland, to be Special Counsel, Office of Special Counsel, for the term of five years, vice Scott J. Bloch, resigned. Returned 22, 2010.

Esteban Soto III, of Maryland, to be United States Marshal for the Superior Court of the District of Columbia for the term of four years, vice Stephen Thomas Conboy, resigned. Returned December 22, 2010.

Rafael Borrás, of Maryland, to be Under Secretary for Management, Department of Homeland Security, vice Elaine C. Duke, resigned, to which position he was appointed during the last recess of the Senate. Returned December 22, 2010.

IX. ACTIVITIES OF THE SUBCOMMITTEES

SUBCOMMITTEE ON FEDERAL FINANCIAL
MANAGEMENT, GOVERNMENT INFORMATION,
FEDERAL SERVICES, AND INTERNATIONAL SECURITY

CHAIRMAN: THOMAS R. CARPER

RANKING MINORITY MEMBER: TOM COBURN

I. HEARINGS

The Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security held the following hearings during the 111th Congress.

1. January 28, 2009, *"The Impact of the Economic Crisis on the U.S. Postal Service."*

This hearing sought to understand how the Nation's current economic crisis has affected the Postal Service. Some ideas the Subcommittee explored to save the Postal Service money included cutting work hours, streamlining operations, increasing postage rates, and pre-funding health related obligations to future retirees.

Witnesses included: Hon. John E. Potter, Postmaster General and Chief Executive Officer, U.S. Postal Service, Hon. Dan Blair, Chairman, U.S. Postal Regulatory Commission, and Phillip R. Herr, Director, Physical Infrastructure Issues, U.S. Government Accountability Office.

2. March 5, 2009, *"Lessons Learned: How the New Administration Can Achieve an Accurate and Cost-Effective 2010 Census."*

This hearing sought to lay the groundwork for a successful Census in 2010. Many challenges facing the Census Bureau were discussed including: Underfunding for outreach to minority communities and the mis-management of the contract for hand-held computers to aid in data collection. In addition, the Chairman brought up the need for a new nominee for Census Director to provide essential leadership and organization.

Witnesses included: Hon. Barbara Everitt Bryant, Ph.D., Former Director, U.S. Census Bureau, Lawrence Brown, Ph.D., Chair, Committee on National Statistics, National Academy of Sciences, Robert Goldenkoff, Director, Strategic Issues, U.S. Government Accountability Office, Robert B. Hill, Ph.D., Sociologist and Former Chair of the Advisory Committee on African American Population, U.S. Census Bureau, David Powner, Director, Information Technology Management Issues, U.S. Government Accountability Office, and John Thompson, President, National Opinion Research Council.

3. April 22, 2009, *"Eliminating Waste and Fraud in Medicare and Medicaid."*

This hearing sought to identify three things: Programs and activities that have successfully eliminated or reduced fraud, waste, and abuse in Medicare and Medicaid; major challenges for CMS, OIG and States in controlling fraud, waste, and abuse; and ways in which Congress can help to prevent fraud, waste, and abuse.

The following witnesses appeared: Kay L. Daly, Director, Financial Management and Assurance, U.S. Government Accountability Office; Deborah Taylor, Acting Director and Chief Financial Officer, U.S. Office of Financial Management, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services; Lewis Morris, Chief Counsel, Office of Inspector General, U.S. Department of Health and Human Services; and James G. Sheehan, Medicaid Inspector General, New York State Office of the Medicaid Inspector General.

4. April 28, 2009, *“Government 2.0: Advancing America into the 21st Century and a Digital Future.”*

This hearing examined the Obama Administration’s plans to use information technology to make government more efficient, secure, and citizen-focused.

The following witnesses appeared: Hon. Vivek Kundra, Federal Chief Information Officer, Administrator for Electronic Government, Office of Management and Budget; David A. Powner, Director, Information Technology Issues, U.S. Government Accountability Office; Karen S. Evans, former Administrator, Office of Electronic Government and Information Technology, Office of Management and Budget; and Phillip J. Bond, President and CEO, TechAmerica.

5. May 11, 2009, *“Making the Census Count in Urban America.”*

This hearing was held at the National Constitution Center in Philadelphia, PA. Historically, large urban areas like Philadelphia have experienced undercounts in the U.S. Census for various reasons—lack of public awareness, limited outreach, and the challenges in reaching such a diverse and mobile population. In 2000, Philadelphia had a census response rate of 56 percent, falling far below the national response rate of 67 percent. This hearing examined the plan for outreach strategies prior to the 2010 Census, the challenges and opportunities facing hard-to-count communities, and what individuals can do to ensure an accurate, responsible Census.

The following witnesses appeared: Hon. Michael A. Nutter, Mayor, City of Philadelphia; Hon. Michael N. Castle, a U.S. Representative in Congress from the State of Delaware; Hon. James Baker, Mayor, City of Wilmington; Camille Cates Barnett, Managing Director, City of Philadelphia; Thomas Mesenbourg, Acting Director, U.S. Census Bureau, U.S. Department of Commerce; Norman Bristol Colón, Executive Director, Governor’s Advisory Commission on Latino Affairs, Office of Governor Edward G. Rendell; Patricia A. Coulter, President and CEO, Urban League of Philadelphia; and Wanda M. Lopez, Executive Director, Governor’s Advisory Council on Hispanic Affairs.

6. July 7, 2009, *“From Strategy to Implementation: Strengthening U.S.-Pakistan Relations.”*

This hearing examined the Obama Administration’s AfPak policy, analyzing whether it is the most effective strategy, and paid particular attention to the possibility of al-Qaeda (or another terrorist group) acquiring a warhead or enough radioactive material to create a dirty bomb.

The following witnesses appeared: Hon. Mark Udall, a U.S. Senator from the State of Colorado; Paul W. Jones, Deputy Special Representative for Afghanistan and Pakistan, and Deputy Assist-

ant Secretary of State for South and Central Asia, Office of the special Representative for Afghanistan and Pakistan, U.S. Department of State; Lisa Curtis, Senior Research Fellow, Asian Studies Center, The Heritage Foundation; Nicholas Schmidle, Fellow, New America Foundation; Shuja Nawaz, Director, South Asia Center, The Atlantic Council; Nathaniel Fick, Chief Executive Officer, Center for a New American Security; and Rolf Mowatt-Larssen, Senior Fellow, Belfer Center for Science and International Affairs, John F. Kennedy School of Government, Harvard University.

7. August 3, 2009, *"Eliminating Wasteful Contractor Bonuses."*

This hearing focused on whether agencies are properly using award fee contract vehicles to align contractor profitability with superior performance.

The following witnesses appeared: Hon. Jeffrey D. Zients, Deputy Director for Management, Office of Management and Budget; John Hutton, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; Shay D. Assad, Acting Deputy Under Secretary of Defense for Acquisition and Technology, U.S. Department of Defense; William P. McNally, Assistant Administrator for Procurement, and Deputy Chief Acquisition Officer, National Aeronautics and Space Administration; Richard K. Gundereson, Acting Chief Procurement Officer, U.S. Department of Homeland Security; Edward R. Simpson, Director, Office of Procurement and Assistance Management, U.S. Department of Energy; and Alan Chvotkin, Executive Vice President and Counsel, Professional Services Council.

8. August 6, 2009, *"The U.S. Postal Service in Crisis."*

This hearing examined the Postal Service's financial condition and proposals that have been made to address the problems that have put the Service on the brink of failure. If Congress does not step in with financial relief or a restructuring of the Postal Service's retiree health payments, there is a great risk that the Postal Service may have run out of cash by the beginning of FY2010. This would likely force postal management to cease operations.

Witnesses at this hearing were as follows: Hon. John E. Potter, Postmaster General and Chief Executive Officer, U.S. Postal Service; Fredric V. Rolando, President, National Association of Letter Carriers, AFL-CIO; David C. Williams, Inspector General, U.S. Postal Service; Phillip R. Herr, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; William Burrus, President, American Postal Workers Union, AFL-CIO; Dale Goff, President, National Association of Postmasters of the United States; James E. West, Director, Postal and Government Affairs, Williams-Sonoma, Inc.; Mark Suwyn, Executive Chairman NewPage Corporation; Nancy H. Kichak, Associate Director for Strategic Human Resources Policy Division, U.S. Office of Personnel Management; and Hon. Ruth Y. Goldway, Chairman, Postal Regulatory Commission.

9. September 24, 2009, *"Getting to Better Government: Focusing on Performance."*

As the Government Accountability Office has pointed out, the Federal Government's performance and the results it achieves have a profound effect on the most important issues to the American people-creating jobs, providing health care, overseeing financial

markets, reducing pollutants and sending additional troops to war. Congress has a responsibility to make sure taxpayers' investment in America is managed in the most effective way possible. This hearing sought to examine how performance information was being used to better manage Federal agencies and how managers could apply it on a more consistent basis for lasting results.

Witnesses included: Hon. Jeffrey D. Zients, Federal Chief Performance Officer and Deputy Director for Management, Office of Management and Budget; Bernice Steinhardt, Director for Strategic Issues, U.S. Government Accountability Office; W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Rhea S. Suh, Assistant Secretary for Policy, Management, and Budget, U.S. Department of the Interior; Michelle Snyder, Acting Deputy Administrator and Deputy Chief Operating Officer, Centers for Medicare and Medicaid Services; and Paul Posner, Director, Public Administration Program, Department of Public and International Affairs, George Mason University.

10. September 30, 2009, "*A Prescription for Waste: Controlled Substance Abuse in Medicaid.*"

This hearing explored the surge in fraudulent controlled substance prescription claims. In particular, the Subcommittee focused on a study completed by GAO which found tens of thousands of Medicaid beneficiaries and providers involved in fraudulent purchases of controlled substances through the Medicaid program. The three main sources of fraud and abuse which were discussed during this hearing include: Beneficiaries engaged in "doctor shopping" substances "received" by dead beneficiaries or "written" by dead doctors, and banned physicians continuing to illegally write prescriptions and have them paid for by Medicaid.

Witnesses included: Gregory D. Kutz, Managing Director, Forensic Audits and Special Investigations, U.S. Government Accountability Office; Penny Thompson, Deputy Director, Center for Medicaid and State Operations, Centers for Medicare and Medicaid Services; Ann Kohler, Executive Director, National Association of State Medicaid Directors; and Joseph Rannazzisi, Deputy Assistant Administrator, Office of Diversion Control, U.S. Drug Enforcement Agency, U.S. Department of Justice.

11. October 7, 2009, "*2010 Census: A Status Update of Key Decennial Operations.*"

This hearing provided a status update of key decennial operations to determine the Census Bureau's overall readiness for the 2010 Census. The Subcommittee was updated on 2010 decennial operations, focusing on the results of the Bureau's recent completion of its address canvassing operation, the progress of the Bureau's testing of key decennial information technology systems and interfaces, and the use of American Reinvestment and Recovery Act (AARA) spending to enhance outreach to hard-to-count communities.

Witnesses included: Hon. Robert Groves, Director, U.S. Census Bureau; Robert Goldenkoff, Director, Census Issues, U.S. Government Accountability Office; and Hon. Todd Zinser, Inspector General, U.S. Department of Commerce.

12. October 29, 2009, *"More Security, Less Waste: What Makes Sense for our Federal Cyber Defense."*

Despite the fact that Federal agencies spend approximately \$7 billion every year to secure their networks and protect sensitive information, agencies continue to receive failing reports from Inspectors General, the Government Accountability Office, and Congress. More importantly, cyber criminals continue to plunder our information resources and threaten to destroy mission critical networks. To address these threats, agencies go through a process known as certification and accreditation to reduce the risk of cyber attack. However in a hearing in 2008 before the FFM Subcommittee, agencies testified that FISMA implementation has wasted millions of dollars on ineffective paperwork compliance instead of effective security. This hearing sought to examine ways Federal agencies and Congress can cost-effectively invest in security and measure the return on investment and reduced risk to mission critical networks.

The following witnesses appeared: Hon. Tom Davis, former U.S. Representative from the State of Virginia; Vivek Kundra, Federal Chief Information Officer, Administrator for Electronic Government and Information Technology, Office of Management and Budget; Gregory C. Wilshusen, Director, Information Technology Security Issues, U.S. Government Accountability Office; and John Streufert, Chief Information Security Officer, and Deputy Chief Information Officer for Information Security, Bureau of Information Resource Management, U.S. Department of State.

13. December 16, 2009, *"Tools to Combat Deficits and Waste: Expedited Rescission Authority."*

This hearing examined the President's rescission authority and a variety of proposals that have been put forward to enhance the effectiveness of this authority in combating annual budget deficits and wasteful spending. At the time of this hearing, the U.S. national debt was approaching \$12 trillion and the FY2010 budget deficit was expected to be more than \$1 trillion. According to CBO in FY2009, total Federal spending was equal to nearly 25 percent of GDP, which was the highest ratio in more than 50 years. If Congress and the Administration are to balance the budget and tackle the national debt, they must address the accelerated growth in Federal spending. In his FY2010 budget proposal, the President requested an enhancement of his executive rescission authority in order to more effectively eliminate wasteful and unnecessary spending. The hearing sought to (1) explore the President's current rescission authority, (2) determine whether an expedited rescission authority will be successful in helping to reduce unnecessary spending and close our budget deficit, and (3) examine several proposals in Congress to provide the President with this new authority.

Witnesses at this hearing included: Hon. Russell D. Feingold, a U.S. Senator from the State of Wisconsin; Todd B. Tatelman, Legislative Attorney American Law Division Congressional Research Service, Robert L. Bixby, Executive Director, The Concord Coalition; Thomas A. Schatz, President, Citizens Against Government Waste; Raymond C. Scheppach, Ph.D., Executive Director, National Governors Association; and Susan A. Poling, Managing Associate General Counsel, U.S. Government Accountability Office.

14. January 27, 2010, *"Cutting the Federal Government's Energy Bill: An Examination of the Sustainable Federal Government Executive Order."*

During this hearing the Subcommittee examined the financial implications of the recently signed Executive Order 13514, directing stronger action by Federal agencies for energy efficiency in their facilities and operations, as well as other sustainability measures. The Federal Government is the world's largest institutional consumer of energy, with a total annual energy bill of about \$17.7 billion (FY2006). This presents an important opportunity for the Federal Government to lead by example in pursuing both greater environmental and fiscal responsibility.

The hearing focused on the recent presidential sustainable government Executive Order's potential for financial savings by Federal agencies. The Subcommittee reviewed the goals and timelines of the Executive Order.

Witnesses present were as follows: Nancy Sutley, Chair, Council on Environmental Quality; Richard Kidd, Program Manager, Federal Energy Management Program, U.S. Department of Energy; Dorothy Robyn, Ph.D., Deputy Under Secretary of Defense for Installations and Environment, U.S. Department of Defense; and Sam Pulcrano, Vice President, Office of Sustainability, U.S. Postal Service.

15. February 19, 2010, *"Blue, Gold, and Green: How Delaware State and Local Governments are Cutting Their Energy Costs."*

This hearing was held in the Carvel State Office Building in Wilmington, Delaware. The hearing explored what State and local governments in Delaware are doing to cut energy costs in the face of mounting budget deficits. As part of the State of Delaware measures to increase government efficiency, Delaware Governor Jack Markell announced he would release an Executive Order calling for energy consumption reductions in all State facilities soon after the hearing. The hearing explored the similarities and differences between President Obama's Executive Order on governmental sustainability, including energy efficiency, issued in 2009, and Governor Markell's Executive Order.

Witnesses included: Hon. Jack Markell, Governor, State of Delaware; Chris Coons, County Executive, New Castle County, Delaware; James Baker, Mayor, City of Wilmington, Delaware; and Roy Whitaker, Chief of Buildings and Grounds, Seaford School District, Delaware.

16. February 23, 2010, *"Countdown to Census Day: Progress Report on the Census Bureau's Preparedness for the Enumeration."*

This hearing provided an overview of the Census Bureau's testing efforts for the broad array of systems in place to support the collection, integration, and tabulation of census data of the upcoming Census Day. As government auditors have reported, although the Census Bureau has made commendable progress in mitigating risks to a successful enumeration and keeping the entire decennial on track, much work remains to be done to ensure a thorough count. This hearing will assess the Bureau's readiness for the headcount and its implementation of key census-taking activities in April 2010. Specifically, the hearing will study (1) the management and performance of key information technology systems; (2) the

preliminary results of group quarters validation; (3) the planning and implementation of coverage improvement and measurement operations; non-response follow-up planning, including an update on efforts to improve fingerprinting policies and procedures; and (4) estimates of the costs of the 2010 Census.

Witnesses included: Robert M. Groves, Director, U.S. Census Bureau, U.S. Department of Commerce; Todd J. Zinser, Inspector General, U.S. Department of Commerce; and Robert Goldenkoff, Director, Strategic Issues, U.S. Government Accountability Office.

17. March 3, 2010, *“Oversight Challenges in the Medicare Prescription Drug Program.”*

This hearing explored the challenges of waste, fraud, and abuse in the Medicare prescription drug program and the possible opportunities to improve oversight. Medicare has faced enormous challenges in combating waste, fraud, and abuse. The Health and Human Services (HHS) Centers for Medicare and Medicaid Services has experienced substantial challenges with implementing effective oversight of the \$60 billion Medicaid Part D prescription drug program. The HHS Inspector General and others have already reported on specific failures, calling into question whether adequate oversight work was conducted during the first 4 years of the program. However, some outside analysts have identified steps to substantially improve oversight.

Witnesses included: Hon. Amy Klobuchar, a U.S. Senator from the State of Minnesota; Kathleen M. King, Director, Health Care, U.S. Government Accountability Office; Howard B. Apple, President, SafeGuard Services, LLC, accompanied by Doug Quave, Program Director, Compliance and Enforcement MEDIC; Christian Jensen, M.D., MPH, President and Chief Executive Officer, Quality Health Strategies; Jonathan Blum, Director, Center for Drug and Health Plan Choice, U.S. Department of Health and Human Services; and Robert Vito, Regional Inspector General for Evaluations and Inspections, Office of Inspector General, U.S. Department of Health and Human Services.

18. March 23, 2010 and April 13, 2010, *“Removing the Shroud of Secrecy: Making Government More Transparent and Accountable—Part I and II.”*

President Obama campaigned on the promise that he was going to leverage technology to fundamentally change the way government interacts with every American, making agencies more efficient, transparent, and responsive. On his first day in office, President Obama signed an “open government” directive which instructs agencies to take specific actions to open their operations to the public. The idea behind the directive is that more open government allows members of the public to contribute ideas and expertise to government initiatives. Collaboration improves the effectiveness of government by encouraging partnerships and cooperation within the Federal Government, across levels of government, and between the government and private institution. Further, providing more government information by default, instead of by exception, will help reduce the costs and backlog of FOIA requests and spur innovation in the private sector that can leverage the information. This hearing sought to examine President Obama’s Open Government initiative and explore what areas will lead to improved manage-

ment, accountability, and cost-savings. The hearing helped the Subcommittee highlight areas of improvement and steps forward on implementing the initiative.

Witnesses who appeared on March 23, 2010: Vivek Kundra, Federal Chief Information Officer and Administrator for electronic Government and Information Technology, Office of Management and Budget; Hon. Aneesh chopra, chief Technology Officer and Associate Director for Technology, Office of Science and Technology Policy, Executive Office of the President; Hon. David Ferriero, Archivist of the United States of America, National Archives and Records Administration; and Ellen Miller, Co-Founder and Executive Director, Sunlight Foundation.

Witnesses who appeared on April 13, 2010: John Wonderlich, Policy Director, Sunlight Foundation; Stephen W.T. O'Keeffe, Founder, MeriTalk Online; and Thomas Blanton, Director, National Security Archive, George Washington University.

19. April 22, 2010, *"The Future of the U.S. Postal Service."*

This hearing examined the Postal Service's financial condition and a series of proposals the Postal Service has made to address the problems it faces. The Postal Service expected a record loss in FY10. The economic slowdown, the continued electronic diversion of the mail, and an unrealistically aggressive retiree health pre-payment schedule have combined to put the Postal Service in crisis. In addition, an analysis of the future of the mail conducted on behalf of the Postal Service has shown that mail volume is not likely to recover along with the economy. The Postal Service is expecting continuing volume declines and, by 2020, a cumulative deficit of more than \$230 billion.

Witnesses included: Phillip Herr, Director of Physical Infrastructure Issues, U.S. Government Accountability Office; Hon. John E. Potter, Postmaster General and Chief Executive Officer, U.S. Postal Service; Hon. David C. Williams, Inspector General, U.S. Postal Service; and Hon. Ruth Y. Goldway, Commissioner, Postal Regulatory Commission.

20. June 16, 2010 and July 22, 2010, *"The Gulf of Mexico Oil Spill: Ensuring a Financially Responsible Recovery, Part I and II."*

The June 16 hearing explored how much the BP/Deepwater Horizon oil spill has cost and may continue to cost American taxpayers—and how we intend to get the money back from those responsible for the spill. The points below outline the discussions held during our hearing.

- **Direct Federal Costs**—The government continues to incur costs related to the direct Federal response efforts ongoing on the Gulf and they are billing BP for those costs on a regular basis. Witnesses will discuss the process of tracking those costs and how the government and BP plan to move forward to ensure every dime is reimbursed.
- **Independent Escrow Fund**—The President is expected to call for a independently-monitored, multi-billion dollar escrow fund to handle claims by people and businesses affected by the oil spill. The hearing will explore how such a fund would work and interact with the already existing claims process and statutory authorities.

- **Claims Process**—The ongoing claims process for those harmed by the oil spill remains one of the most controversial aspects of the current incident. This hearing provided an update on current efforts to improve transparency into the process and how we are ensuring that citizens and businesses of the Gulf are made whole.
- **Responsible Parties**—While BP is the main “responsible party.” for this oil spill, there are three other companies also recognized as responsible parties by the government. This hearing explored what role they play in ensuring a responsible financial recovery from this incident.
- **Ongoing risks and vulnerabilities to the Oil Spill Liability Trust Fund**—The GAO has provided testimony and analysis detailing significant risks that remain for the ongoing viability of the Oil Spill Liability Trust Fund, and considerations for Congress to address these vulnerabilities.

The July 22 hearing served as a follow-up to the one held June 16, 2010, exploring the Federal financial impacts of the Gulf of Mexico Oil Spill. Since that initial hearing, the President and BP officials agreed to the establishment of a new, independent escrow fund to handle damage claims from residents adversely affected by the oil spill. This fund is being administered by Kenneth Feinberg. The hearing served to examine how this new claims process is transitioning from the one headed up by BP, and how it is ensuring the Oil Spill Liability Trust Fund remains viable.

Witnesses who appeared on June 16, 2010 included: Hon. Frank R. Lautenberg, a U.S. Senator from the State of New Jersey; Darryl Willis, Vice President, Resources, B.P. America, Inc.; Steven Newman, Chief Executive Officer, Transocean Ltd.; Susan A. Fleming, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; and Craig Bennett, Director, National Pollution Funds Center, U.S. Coast Guard.

Witnesses who appeared on July 22, 2010 included: Kenneth R. Feinberg, Administrator, Gulf Coast Claims Facility; James T. Hackett, President and CEO, Anadarko Petroleum Corporation; and Naoki Ishii, President, MOEX Offshore 2007 LLC, accompanied by Fuiko Sato, Interpreter.

21. June 23, 2010, *“Having Their Say: Customer and Employee Views on the Future of the U.S. Postal Service.”*

The economic slowdown and the continued electronic diversion of mail coupled with an aggressive retiree health pre-payment schedule have combined to put the Postal Service in financial crisis. In addition, an analysis of the future of the mail conducted on behalf of the Postal Service shows that mail volume may not recover along with the economy. If the study’s predictions hold true and absolutely nothing is done, mail volume will continue to decline, potentially resulting in a cumulative deficit of more than \$230 billion by 2020. Moreover, in its April 12 report entitled “U.S. Postal Service: Strategies and Options to Facilitate Progress Toward Financial Viability,” the Government Accountability Office found that the Postal Service’s current business model is not viable. In light of these findings, the hearing focused on the difficulties facing the Postal Service and the plans postal management and GAO have put forth to address them. The hearing was held jointly by the Senate Com-

mittee on Homeland Security and Governmental Affairs Federal Financial Management, Government Information, Federal Services, and International Security Subcommittee and the House Committee on Oversight and Government Reform Subcommittee on Federal Workforce, Postal Service, and the District of Columbia.

Witnesses included: H. James Gooden, Chairman, Board of Directors, American Lung Association; Donald J. Hall Jr., President and CEO, Hallmark Cards, Inc.; Allen Abbott, Executive Vice President and Chief Operating Officer, Paul Fredrick MenStyle, Inc. and Chairman, American Catalog Mailers Association; Keith McFalls, Vice President of Operations, PrimeMail and Triessant, Prime Therapeutics; Paul Misener, Vice President of Global Public Policy, Amazon.com; Andrew Rendich, Chief Service and DVD Operations Officer, Netflix, Inc.; Don Cantriel, President, National Rural Letter Carriers Association; Frederic V. Rolando, President, National Association of Letter Carriers, AFL-CIO; William Burrus, President, American Postal Workers Union, AFL-Cio; Richard Collins, Assistant to the President, National Postal Mail Handlers Union; Louis Atkins, Executive Vice President, National Association of Postal Supervisors; Charles Mapa, President, National League of Postmasters; and Robert J. Rapoza, President, National Association of Postmasters of the United States.

22. July 13, 2010, *"The Cost Effectiveness of Procuring Weapon Systems in Excess of Requirements: Can We Afford More C-17s?"*

In an effort to shed light on the need to reduce Federal expenditures on unnecessary weapon systems, this hearing examined the implications of procuring more weapon systems than recommended by studies and assessments from the Department of Defense. Specifically, this hearing examined the budgetary and national security impact of procuring more C-17s strategic airlifter than are required by the established airlift requirements in the "DOD Mobility Capabilities and Requirements Study—2016." During the course of this hearing we hoped the witness's testimony would factor in the cost effectiveness of procuring additional C-17s and whether maintaining a buffer between capabilities and requirements is beneficial to national security and affordable for taxpayers.

Witnesses included: Hon. Michael McCord, Principal Deputy Under Secretary of Defense, Comptroller, U.S. Department of Defense; Alan Estevez, Deputy Assistant Secretary of Defense for Logistical and Materiel Readiness Acquisition, Technology and Logistics, U.S. Department of Defense; Major General Susan Y. Desjardins, Director, Strategic Plans, Requirements and Programs, Headquarters Air Mobility Command, U.S. Air Force; Jeremiah Gertler, Specialist in Military Aviation, Congressional Research Service; and William L. Greer, Ph.D., Assistant Director, System Evaluation Division, Institute for Defense Analyses.

23. July 15, 2010, *"Preventing and Recovering Medicare Payment Errors."*

This hearing explored the history of recovery audit contracting within the Medicare program, as well as opportunities for expanding the use of such contracting by the Centers for Medicare and Medicaid Services. The Subcommittee examined lessons learned from the recovery auditing experiences of Medicare that could

prove useful to a range of agencies throughout the Federal Government considering similar initiatives.

Witnesses included: Kathleen M. King, Director, Health Care, U.S. Government Accountability Office; Deborah Taylor, Chief Financial Officer and Director, Office of Financial Management, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services; Robert Vito, Acting Assistant Inspector General, Centers for Medicare and Medicaid Audits, Office of Inspector General, U.S. Department of Health and Human Services; Libby Alexander, Chief Executive Officer, Connolly Healthcare, Connolly, Inc.; Lisa Im, Chief Executive Officer, Performant Financial Corporation; Andrea Benko, President and Chief Executive Officer, HealthDataInsights, Inc.; Robert Rolf, Vice President for Healthcare BPO, CGI Federal, Inc.; and Romil Bahl, President and Chief executive Officer, PRGX Global, Inc.

24. August 3, 2010, *“Transforming Government Through Innovative Tools and Technology.”*

This hearing explored unique and innovative techniques to transform the way government operates. Specifically, the hearing focused on how we use creative technologies to solve problems and cut fraud, waste, and abuse from government programs. The American Recovery and Reinvestment Act created a new paradigm for how traditional government bureaucracy approaches the allocation of taxpayer funds. The Recovery Board fosters a collaborative relationship amongst the Federal Inspector General community to ensure taxpayer funds are being used efficiently and effectively. In addition, the Recovery Board employs cutting edge data analysis and Web technologies to root out fraud, waste, and abuse and inform the American people. This hearing explored how the example set by the Recovery Board can be used—and is being used—throughout government, with a specific focus on Centers for Medicare and Medicaid Services.

Witnesses who appeared are as follows: Earl Devaney, Chairman of the Recovery Accountability and Transparency Board; Daniel I. Werfel, Controller, Office of Federal Financial Management, Office of Management and Budget; Alexander Karp, Ph.D., Co-Founder and Chief Executive Officer, Palantir Technologies; Robert R. McEwen, Chairman and Chief Executive Officer, U.S. Goldcorp. Inc.; and Riley Crane, Ph.D., Media Laboratory Human Dynamics Group, Massachusetts Institute of Technology.

25. September 29, 2010, *“Improving Financial Accountability at the Department of Defense.”*

This hearing examined the plans laid out by the Department of Defense for improving its financial accountability. Congress established a requirement for the Department of Defense to become “audit ready” by 2017. However, past hearings and studies by the Government Accountability Office bring into question whether the DOD, and the military services and agencies, will meet this deadline. Further, the GAO placed DOD’s financial management on its list of “high risk” areas of concern. Key questions for the hearing included whether the DOD’s financial improvement plan is adequate, and whether DOD can and will meet the goals of this plan.

Witnesses who appeared at the hearing: Robert F. Hale, Under Secretary of Defense and Chief Financial Officer, U.S. Department

of Defense; Elizabeth A. McGrath, Deputy Chief Management Officer, U.S. Department of Defense; Eric Fanning, Deputy Under Secretary of the Navy and Deputy Chief Management Officer, U.S. Navy; David Tillotson III, Deputy Chief Management Officer, U.S. Air Force; Lieutenant General Robert E. Durbin, Acting Deputy Chief Management Officer, U.S. Army; and Asif A. Khan, Director, Financial Management and Assurance, U.S. Government Accountability Office.

26. December 2, 2010, *"Finding Solutions to the Challenges Facing the U.S. Postal Service."*

This hearing examined the latest challenges facing the financial state of the Postal Service. Testimony from postal management and other stakeholders discussed the provisions in S. 3831.

Witnesses included: Patrick R. Donahoe, Deputy Postmaster General and Chief Operating Officer, U.S. Postal Service; Jonathan Foley, Director of Planning and Policy Analysis, Office of Personnel Management; Phillip Herr, Director, Physical Infrastructure Issues, U.S. Government Accountability Office; and Robert J. Rapoza, National President, National Association of Postmasters of the United States; Hon. Ruth Y. Goldway, Chairman, Postal Regulatory Commission; Frederic Rolando, President, National Association of Letter Carriers, AFL-CIO; and Jerry Cerasale, Senior Vice President, Government Affairs, Direct Marketing Association, Inc., on behalf of Affordable Mail Alliance.

II. LEGISLATION

S. 1083—Caribbean Count Act—Requires the Secretary of Commerce to include in any questionnaire used in a decennial census to determine State populations an option for respondents to indicate Caribbean extraction or descent.

S. 1084—A bill to require that, in the questionnaires used in the taking of any decennial census of population, a checkbox or other similar option be included so that respondents may indicate Dominican extraction or descent.

S. 1127—Disability Data Modernization Act. Directs the Secretary of Commerce to include the Katz basic activities of daily living scale and the Lawton-Brody instrumental activities of daily living scale in any questionnaire used in the decennial census and the American Community Survey.

S. 1211—A bill to designate the facility of the United States Postal Service located at 60 School Street, Orchard Park, New York, as the "Jack F. Kemp Post Office Building."

S. 1314—A bill to designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the "Dr. Martin Luther King, Jr. Post Office."

S. 1567—Multinational Species Conservation Funds Semipostal Stamp Act of 2009

S. 1688—Fairness in Representation Act—Directs the Secretary of Commerce, in conducting the 2010 decennial census and every decennial census thereafter, to include in any questionnaire used for the purpose of determining the total population by states, a checkbox or similar option for respondents to indicate citizenship status or lawful presence in the United States.

Requires the Secretary to adjust census figures as necessary so that those who are not U.S. citizens or are not lawfully present in the United States are not counted in tabulating population for purposes of apportioning Representatives in Congress among the states.

S. 2945—A bill to designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the “Private First Class Garfield M. Langhorn Post Office Building.”

S. 3012—A bill to designate the facility of the United States Postal Service located at 2-116th Street in North Troy, New York, as the “Martin G. ‘Marty’ Mahar Post Office.”

S. 3013—A bill to designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the “Sergeant Christopher R. Hrbek Post Office Building.”

S. 3145—A bill to amend section 1004 of title 39, United States Code, to include that it is a policy of the Postal Service to ensure reasonable and sustainable workloads and schedules for supervisory and management employees and to clarify provisions relating to consultation and changes or terminations in certain proposals.

S. 3167—Census Oversight Efficiency and Management Reform Act of 2010—Requires the individual appointed as Director of the Census to have a demonstrated ability in managing large organizations and experience in the collection, analysis, and use of statistical data.

Provides that: (1) the Director shall report directly to the Secretary of Commerce; and (2) no U.S. officer or agency shall have authority to require the Director to submit legislative recommendations, testimony, or comments for review prior to the submission to Congress if such submission includes a statement indicating that the views expressed are those of the Bureau of the Census and do not necessarily represent the views of the President.

Requires the term of office of the Director to be 5 years and to begin on January 1, 2012, and every fifth year thereafter. Prohibits an individual from serving more than two full terms as Director. Sets forth provisions governing: (1) vacancies in and removal from office; and (2) the authorities and duties of the Director.

Requires the Director to establish a technology advisory committee, whose members shall be selected from the public, private, and academic sectors, to make recommendations to the Director and publish reports on the use of commercially available technologies and services to improve efficiencies and manage costs in the implementation of the census and census-related activities, including pilot projects.

Establishes the position of Deputy Director of the Census.

Requires the Director to: (1) provide a plan to Congress on how the Bureau will test, develop, and implement an Internet response option for the 2020 Census and the American Community Survey; and (2) submit to the appropriate congressional committees, by the date of submission of the President’s budget request for a fiscal year, a comprehensive status report on the next decennial census.

Requires each report to include: (1) a description of the Bureau's performance goals for each significant decennial operation; (2) an assessment of the risks associated with each such operation; (3) detailed milestone estimates for each such operation; (4) updated cost estimates for the life cycle of the decennial census; and (5) a detailed description of all contracts over \$50 million entered into for each such operation.

S. 3465—A bill to designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the "Michael C. Rothberg Post Office."

S. 3567—A bill to designate the facility of the United States Postal Service located at 100 Broadway in Lynbrook, New York, as the "Navy Corpsman Jeffrey L. Wiener Post Office Building."

S. 3592—A bill to designate the facility of the United States Postal Service located at 100 Commerce Drive in Tyrone, Georgia, as the "First Lieutenant Robert Wilson Collins Post Office Building."

H.R. 22—United States Postal Service Financial Relief Act of 2009—Reduces the amount the United States Postal Service must pay into the Postal Service Retiree Health Benefits Fund by September 30, 2009, from \$5.4 billion to \$1.4 billion.

H.R. 663—To designate the facility of the United States Postal Service located at 12877 Broad Street in Sparta, Georgia, as the "Yvonne Ingram-Ephraim Post Office Building."

H.R. 774—To designate the facility of the United States Postal Service located at 46-02 21st Street in Long Island City, New York, as the "Geraldine Ferraro Post Office Building."

H.R. 918—To designate the facility of the United States Postal Service located at 300 East 3rd Street in Jamestown, New York, as the "Stan Lundine Post Office Building."

H.R. 955—To designate the facility of the United States Postal Service located at 10355 Northeast Valley Road in Rollingbay, Washington, as the "John 'Bud' Hawk Post Office."

H.R. 987—To designate the facility of the United States Postal Service located at 601 8th Street in Freedom, Pennsylvania, as the "John Scott Challis, Jr. Post Office."

H.R. 1216—To designate the facility of the United States Postal Service located at 1100 Town and Country Commons in Chesterfield, Missouri, as the "Lance Corporal Matthew P. Pathenos Post Office Building."

H.R. 1217—To designate the facility of the United States Postal Service located at 15455 Manchester Road in Ballwin, Missouri, as the "Specialist Peter J. Navarro Post Office Building."

H.R. 1218—To designate the facility of the United States Postal Service located at 112 South 5th Street in Saint Charles, Missouri, as the "Lance Corporal Drew W. Weaver Post Office Building."

H.R. 1271—To designate the facility of the United States Postal Service located at 2351 West Atlantic Boulevard in Pompano Beach, Florida, as the "Elijah Pat Larkins Post Office Building."

H.R. 1284—To designate the facility of the United States Postal Service located at 103 West Main Street in McLain, Mississippi, as the "Major Ed W. Freeman Post Office."

H.R. 1397—To designate the facility of the United States Postal Service located at 41 Purdy Avenue in Rye, New York, as the “Caroline O’Day Post Office Building.”

H.R. 1454—Multinational Species Conservation Funds Semipostal Stamp Act of 2010—Requires the United States Postal Service to issue and sell, at a premium, a Multinational Species Conservation Funds Semipostal Stamp. Requires the use of such a stamp to be voluntary on the part of postal patrons.

Requires proceeds from the sale of such stamp to be: (1) transferred to the United States Fish and Wildlife Service (USFWS) to help fund the operations supported by the Multinational Species Conservation Funds; and (2) divided equally among the African Elephant Conservation Fund, the Asian Elephant Conservation Fund, the Great Ape Conservation Fund, the Marine Turtle Conservation Fund, the Rhinoceros and Tiger Conservation Fund, and other international wildlife conservation funds authorized by Congress after the date of this Act’s enactment. Prohibits such proceeds from being taken into account in any decision relating to the level of appropriations or other Federal funding to be furnished to the USFWS or such Funds.

Requires the stamp to be made available to the public for at least 2 years.

Prohibits such proceeds from being used to fund or support the Wildlife Without Borders Program or to supplement funds made available for the Neotropical Migratory Bird Conservation Fund.

H.R. 1516—To designate the facility of the United States Postal Service located at 37926 Church Street in Dade City, Florida, as the “Sergeant Marcus Mathes Post Office.”

H.R. 1713—To name the South Central Agricultural Research Laboratory of the Department of Agriculture in Lane, Oklahoma, and the facility of the United States Postal Service located at 310 North Perry Street in Bennington, Oklahoma, in honor of former Congressman Wesley “Wes” Watkins.

H.R. 1817—To designate the facility of the United States Postal Service located at 116 North West Street in Somerville, Tennessee, as the “John S. Wilder Post Office Building.”

H.R. 2090—To designate the facility of the United States Postal Service located at 431 State Street in Ogdensburg, New York, as the “Frederic Remington Post Office Building.”

H.R. 2162—To designate the facility of the United States Postal Service located at 123 11th Avenue South in Nampa, Idaho, as the “Herbert A Littleton Postal Station.”

H.R. 2173—To designate the facility of the United States Postal Service located at 1009 Crystal Road in Island Falls, Maine, as the “Carl B. Smith Post Office.”

H.R. 2174—To designate the facility of the United States Postal Service located at 18 Main Street in Howland, Maine, as the “Clyde Hichborn Post Office.”

H.R. 2215—To designate the facility of the United States Postal Service located at 140 Merriman Road in Garden City, Michigan, as the “John J. Shivnen Post Office Building.”

H.R. 2325—To designate the facility of the United States Postal Service located at 1300 Matamoros Street in Laredo, Texas, as the “Laredo Veterans Post Office.”

H.R. 2422—To designate the facility of the United States Postal Service located at 2300 Scenic Drive in Georgetown, Texas, as the “Kile G. West Post Office Building.”

H.R. 2470—To designate the facility of the United States Postal Service located at 19190 Cochran Boulevard FRNT in Port Charlotte, Florida, as the “Lieutenant Commander Roy H. Boehm Post Office Building.”

H.R. 2877—To designate the facility of the United States Postal Service located at 76 Brookside Avenue in Chester, New York, as the “1st Lieutenant Louis Allen Post Office.”

H.R. 2971—To designate the facility of the United States Postal Service located at 630 Northeast Killingsworth Avenue in Portland, Oregon, as the “Dr. Martin Luther King, Jr. Post Office.”

H.R. 2972—To designate the facility of the United States Postal Service located at 115 West Edward Street in Erath, Louisiana, as the “Conrad DeRouen, Jr. Post Office.”

H.R. 3072—To designate the facility of the United States Postal Service located at 9810 Halls Ferry Road in St. Louis, Missouri, as the “Coach Jodie Bailey Post Office Building.”

H.R. 3119—To designate the facility of the United States Postal Service located at 867 Stockton Street in San Francisco, California, as the “Lim Poon Lee Post Office.”

H.R. 3137—To amend title 39, United States Code, to provide clarification relating to the authority of the United States Postal Service to accept donations as an additional source of funding for commemorative plaques.

H.R. 3250—To designate the facility of the United States Postal Service located at 1210 West Main Street in Riverhead, New York, as the “Private First Class Garfield M. Langhorn Post Office Building.”

H.R. 3319—To designate the facility of the United States Postal Service located at 440 South Gullwing Street in Portola, California, as the “Army Specialist Jeremiah Paul McCleery Post Office Building.”

H.R. 3386—To designate the facility of the United States Postal Service located at 1165 2nd Avenue in Des Moines, Iowa, as the “Iraq and Afghanistan Veterans Memorial Post Office.”

H.R. 3539—To designate the facility of the United States Postal Service located at 427 Harrison Avenue in Harrison, New Jersey, as the “Patricia D. McGinty-Juhl Post Office Building.”

H.R. 3547—To designate the facility of the United States Postal Service located at 936 South 250 East in Provo, Utah, as the “Rex E. Lee Post Office Building.”

H.R. 3767—To designate the facility of the United States Postal Service located at 170 North Main Street in Smithfield, Utah, as the “W. Hazen Hillyard Post Office Building.”

H.R. 3788—To designate the facility of the United States Postal Service located at 3900 Darrow Road in Stow, Ohio, as the “Corporal Joseph A. Tomci Post Office Building.”

H.R. 3892—To designate the facility of the United States Postal Service located at 101 West Highway 64 Bypass in Roper, North Carolina, as the “E.V. Wilkins Post Office.”

H.R. 4095—To designate the facility of the United States Postal Service located at 9727 Antioch Road in Overland Park, Kansas, as the “Congresswoman Jan Meyers Post Office Building.”

H.R. 4139—To designate the facility of the United States Postal Service located at 7464 Highway 503 in Hickory, Mississippi, as the “Sergeant Matthew L. Ingram Post Office.”

H.R. 4214—To designate the facility of the United States Postal Service located at 45300 Portola Avenue in Palm Desert, California, as the “Roy Wilson Post Office.”

H.R. 4238—To designate the facility of the United States Postal Service located at 930 39th Avenue in Greeley, Colorado, as the “W.D. Farr Post Office Building.”

H.R. 4495—To designate the facility of the United States Postal Service located at 100 North Taylor Lane in Patagonia, Arizona, as the “Jim Kolbe Post Office.”

H.R. 4543—To designate the facility of the United States Postal Service located at 4285 Payne Avenue in San Jose, California, as the “Anthony J. Cortese Post Office Building.”

H.R. 4547—To designate the facility of the United States Postal Service located at 119 Station Road in Cheyney, Pennsylvania, as the “Captain Luther H. Smith, U.S. Army Air Forces Post Office.”

H.R. 4624—To designate the facility of the United States Postal Service located at 125 Kerr Avenue in Rome City, Indiana, as the “SPC Nicholas Scott Hartge Post Office.”

H.R. 4628—To designate the facility of the United States Postal Service located at 216 Westwood Avenue in Westwood, New Jersey, as the “Sergeant Christopher R. Hrbek Post Office Building.”

H.R. 4861—To designate the facility of the United States Postal Service located at 1343 West Irving Park Road in Chicago, Illinois, as the “Steve Goodman Post Office Building.”

H.R. 5051—To designate the facility of the United States Postal Service located at 23 Genesee Street in Hornell, New York, as the “Zachary Smith Post Office Building.”

H.R. 5099—To designate the facility of the United States Postal Service located at 15 South Main Street in Sharon, Massachusetts, as the “Michael C. Rothberg Post Office.”

H.R. 5133—To designate the facility of the United States Postal Service located at 331 1st Street in Carlstadt, New Jersey, as the “Staff Sergeant Frank T. Carvill and Lance Corporal Michael A. Schwarz Post Office Building.”

H.R. 5278—To designate the facility of the United States Postal Service located at 405 West Second Street in Dixon, Illinois, as the “President Ronald W. Reagan Post Office Building.”

H.R. 5341—To designate the facility of the United States Postal Service located at 100 Orndorf Drive in Brighton, Michigan, as the “Joyce Rogers Post Office Building.”

H.R. 5390—To designate the facility of the United States Postal Service located at 13301 Smith Road in Cleveland, Ohio, as the “David John Donafee Post Office Building.”

H.R. 5395—To designate the facility of the United States Postal Service located at 151 North Maitland Avenue in Maitland, Florida, as the “Paula Hawkins Post Office Building.”

H.R. 5450—To designate the facility of the United States Postal Service located at 3894 Crenshaw Boulevard in Los Angeles, California, as the “Tom Bradley Post Office Building.”

H.R. 5873—To designate the facility of the United States Postal Service located at 218 North Milwaukee Street in Waterford, Wisconsin, as the “Captain Rhett W. Schiller Post Office.”

S. Con. Res. 32—A bill expressing the sense of Congress on health care reform legislation.

S. Con. Res. 33—A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to honor the crew of the USS Mason DE-529 who fought and served during World War II.

S. Con. Res. 34—A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to honor the crew of the USS Mason DE-529 who fought and served during World War II.

S. Con. Res. 44—A concurrent resolution expressing the sense of Congress that a postage stamp should be issued to commemorate the War of 1812 and that the Citizens’ Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

S. Con. Res. 49—A concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to honor the life of Elijah Parish Lovejoy.

S. Con. Res. 68—A concurrent resolution expressing the sense of Congress that the United States Postal Service should issue a commemorative postage stamp honoring civil rights workers Andrew Goodman, James Chaney, and Michael Schwerner, and the “Freedom Summer” of 1964, and that the Citizens’ Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued.

III. GAO REPORTS

GAO-09-228, Small Business Administration: Additional Guidance on Documenting Credit Elsewhere Decisions Could Improve 7(a) Program Oversight, (02/12/2009)

GAO-09-262, Information Technology: Census Bureau Testing of 2010 Decennial Systems Can Be Strengthened, (03/05/2009)

GAO-09-373, Financial Management: Achieving Financial Statement Auditability in the Department of Defense, (05/06/2009)

GAO-09-328, Financial Management Systems: OMB’s Financial Management Line of Business Initiative Continues but Future Success Remains Uncertain, (05/07/2009)

GAO-09-630, Federal Contracting: Guidance on Award Fees Has Led to Better Practices but Is Not Consistently Applied, (05/29/2009)

GAO-09-671, Hurricanes Gustav and Ike Disaster Assistance: FEMA Strengthened Its Fraud Prevention Controls, but Customer Service Needs Improvement, (06/19/2009)

GAO-09-566, Information Technology: Federal Agencies Need to Strengthen Investment Board Oversight of Poorly Planned and Performing Projects, (06/30/2009)

GAO-09-696, U.S. Postal Service: Mail Delivery Efficiency Has Improved, but Additional Actions Needed to Achieve Further Gains, (07/15/2009)

GAO-09-442, Improper Payments: Significant Improvements Needed in DOD's Efforts to Address Improper Payment and Recovery Auditing Requirements, (07/29/2009)

GAO-09-676, Results-Oriented Management: Strengthening Key Practices at FEMA and Interior Could Promote Greater Use of Performance Information, (08/17/2009)

GAO-09-957, Medicaid: Fraud and Abuse Related to Controlled Substances Identified in Selected States, (09/09/2009)

GAO-09-617, Information Security: Concerted Effort Needed to Improve Federal Performance Measures, (09/14/2009)

GAO-10-2, Information Technology: Agencies Need to Improve the Implementation and Use of Earned Value Techniques to Help Manage Major System Acquisitions, (10/08/2009)

GAO-10-59, 2010 Census: Census Bureau Has Made Progress on Schedule and Operational Control Tools, but Needs to Prioritize Remaining System Requirements, (11/13/2009)

GAO-10-76, Financial Management Systems: DHS Faces Challenges to Successfully Consolidating Its Existing Disparate Systems, (12/04/2009)

GAO-10-263, Formula Grants: Funding for the Largest Federal Assistance Programs Is Based on Census-Related Data and Other Factors, (12/15/2009)

GAO-10-237, Information Security: Concerted Effort Needed to Consolidate and Secure Internet Connections at Federal Agencies, (03/12/2010)

GAO-10-202, Information Security: Agencies Need to Implement Federal Desktop Core Configuration Requirements, (03/12/2010)

GAO-10-455, U.S. Postal Service: Strategies and Options to Facilitate Progress toward Financial Viability, (04/12/2010)

GAO-10-394, Streamlining Government: Opportunities Exist to Strengthen OMB's Approach to Improving Efficiency, (05/07/2010)

GAO-10-513, Information Security: Federal Guidance Needed to Address Control Issues with Implementing Cloud Computing, (05/27/2010)

GAO-10-444, Social Security Administration: Cases of Federal Employees and Transportation Drivers and Owners Who Fraudulently and/or Improperly Received SSA Disability Payments, (06/25/2010)

GAO-10-701, Information Technology: OMB's Dashboard Has Increased Transparency and Oversight, but Improvements Needed, (07/16/2010)

GAO-10-808, Financial Management Systems: Experience with Prior Migration and Modernization Efforts Provides Lessons Learned for New Approach, (09/08/2010)

GAO-10-693, Contractor Integrity: Stronger Safeguards Needed for Contractor Access to Sensitive Information, (09/10/2010)

GAO-11-53, DOD Business Transformation: Improved Management Oversight of Business System Modernization Efforts Needed, (10/07/2010)

GAO-11-45, 2010 Census: Key Efforts to Include Hard-to-Count Populations Went Generally as Planned; Improvements Could Make the Efforts More Effective for Next Census, (12/14/2010)

GAO-11-154, 2010 Census: Follow-up Should Reduce Coverage Errors, but Effects on Demographic Groups Need to Be Determined, (12/14/2010)

GAO-11-193, 2010 Census: Data Collection Operations Were Generally Completed as Planned, but Long-standing Challenges Suggest Need for Fundamental Reforms, (12/14/2010)

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT
MANAGEMENT, THE FEDERAL WORKFORCE,
AND THE DISTRICT OF COLUMBIA

CHAIRMAN: DANIEL K. AKAKA

RANKING MINORITY MEMBER: GEORGE V. VOINOVICH

I. HEARINGS

The Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia held the following hearings during the 111th Congress:

Protecting Animal and Public Health: Homeland Security and the Federal Veterinarian Workforce, February 26, 2009

This hearing focused on a number of issues identified in a U.S. Government Accountability Office review of the Federal veterinarian workforce. At the request of the Subcommittee, GAO examined the Federal Government's efforts in assessing the sufficiency of this workforce for routine program activities and catastrophic events, including pandemic outbreaks, as well as the workforce challenges Federal and State agencies encountered during four recent zoonotic outbreaks.

The Federal veterinarian workforce defends against naturally and intentionally introduced diseases that could harm human and animal health. A number of Federal departments and agencies employ veterinarians who perform critical food safety, research, and public health functions. The U.S. Department of Agriculture has over 1,700 veterinarians, the most of any department. The Departments of Defense and Health and Human Services also have sizable Federal veterinarian workforces. Within these and other departments, subordinate agencies specialize in various functions, such as ensuring the humane treatment of animals at slaughterhouses, monitoring wildlife for illness, researching animal disease outbreaks, and coordinating disease response plans.

At the hearing, Chairman Akaka highlighted the growing threat of animal and zoonotic disease outbreaks and the need for more strategic human capital planning for agencies with Federal veterinarians. The witnesses provided recommendations to strengthen this workforce, including increasing the capacity of veterinary institutions and providing retention incentives.

The witnesses were: Lisa R. Shames, Director, Natural Resources and Environment, U.S. Government Accountability Office; Nancy H. Kichak, Associate Director, Strategic Human Resources Policy Division, U.S. Office of Personnel Management; Gerald W. Parker, DVM, Ph.D., MS, Principal Deputy Assistant Secretary, Office of the Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services; Jill M. Crumpacker, Director, Office of Human Capital Management, U.S. Department of Agriculture; Thomas J. McGinn, III, DVM, Chief Veterinarian and Director, Food, Agriculture, and Veterinary Defense Division, Office of Health Affairs and Office of the Chief Medical Officer, U.S. Department of Homeland Security; W. Ron DeHaven, DVM, MBA, Chief Executive Officer, American Veterinary Medical Association;

Michael Gilsdorf, DVM, Executive Vice President, National Association of Federal Veterinarians; and Marguerite Pappaioanou, DVM, MPVM, Ph.D., DIP/ACVPM, Executive Director, Association of American Veterinary Medical Colleges.

Stability Through Scandal: A Review of the Office of the Chief Financial Officer, March 31, 2009

The hearing examined challenges facing the Office of the Chief Financial Officer, including projected revenue shortfalls in the coming fiscal years and financial management weaknesses that led to various scandals, such as the November 2007 fraud scheme that resulted in approximately \$48 million being misappropriated from the Office of Tax and Revenue.

The Subcommittee found that the OCFO has made steady progress, posting 12 consecutive balanced budgets and rebuilding the District's reputation amongst lenders. However, the OCFO must continue to improve its internal controls to enable it to detect, deter, and prevent fraud.

The witnesses were: Natwar M. Gandhi, Chief Financial Officer, Office of the Chief Financial Officer, District of Columbia; Charles J. Willoughby, Inspector General, District of Columbia Office of the Inspector General.

The Federal Government's Role in Empowering Americans to Make Informed Financial Decisions, April 29, 2009

This hearing reviewed the progress of the Financial Literacy and Education Commission and examined the effectiveness of Federal financial education programs. Government and private studies indicate that far too many Americans of all ages lack the knowledge and skills necessary to make informed decisions regarding their personal finances. As a way to address this problem, Congress created the Financial Literacy and Education Commission in 2003, composed of the head of 20 individual Federal agencies and tasked with reviewing financial literacy and education efforts throughout the Federal Government; identifying and eliminating duplicate financial literacy efforts; and coordinating the promotion of Federal financial literacy efforts.

The U.S. Government Accountability Office issued a report in December 2006, and testified before the Subcommittee in April 2007, reviewing the Commission's effectiveness. GAO found that the National Strategy for Financial Literacy was a useful first step, but that it was more descriptive rather than strategic and lacked certain key characteristics that are needed in a national strategy. Furthermore, GAO observed that the National Strategy's effect on public and private entities that conduct financial education may be limited. GAO conducted an updated assessment of the Commission's progress in implementing its recommendations and released its findings at this hearing. GAO found that the Commission's National Strategy still did not serve as a functional strategy; the Commission has made progress in fostering partnerships with the private and nonprofits sectors to promote financial literacy; and that the Commission continues to face challenges of having limited resources and coordinating 20 individual agencies. This hearing also highlighted work by organizations and agencies, such as the Excel-

lence in Economic Education, American Savings Education Council, and the Office of Personnel Management, to improve financial literacy by promoting financial education programs.

Witnesses: Hon. John Berry, Director, U.S. Office of Personnel Management, accompanied by Dr. Raymond J. Kirk, Manager of Benefits Officers Training and Development Group, U.S. Office of Personnel Management; James H. Shelton, III, Assistant Deputy Secretary for Innovation and Improvement, U.S. Department of Education; Arthur J. Myers, Principal Director and Acting Under Secretary of Defense for Military Community and Family Policy, U.S. Department of Defense; Sandra F. Braunstein, Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System; Richard J. Hillman, Managing Director, Financial Markets and Community Investment, U.S. Government Accountability Office; Dr. Robert F. Duvall, President and CEO, Council for Economic Education; and Dallas L. Salisbury, President and CEO, Employee Benefit Research Institute and Chairman, American Savings Education Council.

National Security Reform: Implementing a National Security Service Workforce, April 30, 2009

This hearing examined the existing and proposed efforts to develop national security professionals, particularly civilian joint duty rotation programs; the implementation challenges associated with these programs; and recommendations to improve on existing efforts. Additionally, this hearing explored findings and recommendations from recent reports that have examined aspects of the national security workforce.

In 1986, the Goldwater-Nichols Act was enacted to develop officers from the military services who are prepared to handle complex, joint warfare challenges. To be eligible for promotion to the rank of brigadier general or equivalent, officers are required to complete joint education and assignments. To many observers, this Act has created more capable military officers. The Federal workforce, specifically the civil service, may also benefit from a similar program to develop its national security workforce. Catastrophic incidents such as the terrorist attacks of September 11, 2001, and Hurricane Katrina, along with operational challenges in stabilizing and reconstructing countries such as Iraq and Afghanistan, have illustrated a need for a national security workforce with greater interagency expertise.

Witnesses testified about the need to create greater interagency expertise in the Federal workforce, the success of the Intelligence Community's joint duty program, and potential challenges standing in the way of implementing an interagency national security workforce.

The witnesses were: Nancy H. Kichak, Associate Director, Strategic Human Resources Policy Division, U.S. Office of Personnel Management; Major General William A. Navas, Jr., USA (Ret.), Executive Director, National Security Professional Development Integration Office; Ronald P. Sanders, Ph.D., Associate Director of National Intelligence, for Human Capital, and Intelligence Community Chief Human Capital Officer, Office of the Director of National Intelligence; Hon. Bob Graham, Former Senator from the State of

Florida, and Chairman, Commission on the Prevention of Weapons of Mass Destruction, Proliferation, and Terrorism; Ambassador Thomas R. Pickering, Former Under Secretary of State for Political Affairs, U.S. Department of State, and Guiding Coalition Member, Project on National Security Reform; and James R. Thompson, Ph.D., Associate Professor, and Head, Department of Public Administration, University of Illinois-Chicago.

Uncle Sam Wants You! Recruitment in the Federal Government, May 7, 2009

The hearing was the second hearing held by the Subcommittee to examine Federal recruitment efforts and processes. The Subcommittee also sought recommendations on the Federal Hiring Process Improvement Act of 2009 (S. 736) from the witnesses. The hearing focused on job postings, candidate outreach, and communication with applicants in the hiring process.

The Subcommittee reviewed improvements made in Federal recruitment and hiring, such as the Office of Personnel Management's "End to End Hiring Roadmap." Notwithstanding this progress, vague job postings, lengthy applications, and insufficient applicant notification during the hiring process continue to be problems, and witnesses testified that S. 736, if enacted, will address these problems. Additionally, Director Berry testified that government-wide reform had yet to take root.

The witnesses were: Hon. John Berry, Director, U.S. Office of Personnel Management; Susan L. Duncan, Director, Civilian Personnel Management, Office of the Deputy Chief of Staff, U.S. Department of the Army; Gail T. Lovelace, Chief Human Capital Officer, U.S. General Services Administration; Max Stier, President and Chief Executive Officer, Partnership for Public Service; Linda E.B. Rix, Co-Chief Executive Officer, Avue Technologies Corporation.

Public Health Challenges in Our Nation's Capital, May 19, 2009

The hearing reviewed the major public health threats facing the District of Columbia, including an HIV/AIDS epidemic, kidney disease, and unsafe drinking water. The Subcommittee reviewed steps Mayor Adrian Fenty has taken to address these risks, such as creating the HIV/AIDS Administration and the Community Health Administration. In particular, the hearing examined the District's outreach initiatives and the progress it has made toward curbing its chronic health epidemics.

The Subcommittee examined efforts to increase testing and community outreach to District residents for HIV/AIDS and chronic diseases. The District has improved collaboration between its agencies to ensure children have access to healthier foods and make healthier life choices. While there has been progress, the hearing highlighted the need for continued improvement in communication between the agencies and further work to ensure that more residents have access to testing and health care.

The witnesses were: Pierre N.D. Vigilance, M.D., MPH, Director, District of Columbia Department of Health; Shannon L. Hader, M.D., MPH, Senior Deputy Director, HIV/AIDS Administration, District of Columbia Department of Health; and Raymond C. Mar-

tins, M.D., Chief Medical Officer, Whitman-Walker Clinic and Clinical Professor of Medicine, George Washington University.

S. 372—The Whistleblower Protection Enhancement Act of 2009, June 11, 2009

The purpose of the hearing was to examine shortcomings in Federal employee whistleblower protections and the pending Whistleblower Protection Enhancement Act of 2009 (S. 372). The hearing also addressed differences between S. 372 and the House companion bill H.R. 1507.

Federal employees are encouraged to disclose government waste, fraud, and abuse, also referred to as “whistleblowing.” The Civil Service Reform Act of 1978 created statutory protections for Federal employees to encourage disclosure of government illegality, waste, fraud, and abuse. Over the years, Congress determined that the CSRA did not protect whistleblowers from reprisals as intended. Thus, in 1989, Congress enacted the Whistleblower Protection Act, which amended the CSRA and enhanced protections for employees who disclose wrongdoing in the Federal Government. However, the Merit Systems Protection Board and Federal Circuit have continued to narrowly interpret the WPA.

Since 2000, Senator Akaka and other Members have introduced several bills to strengthen the WPA, including S. 372 in the 111th Congress. This hearing reviewed the impact S. 372 and H.R. 1507, or alternate proposals, would have on Federal whistleblowers, Federal agencies, national security, and the public interest. Specifically, the hearing focused on whether whistleblower protections should be expanded for the intelligence community and whether Federal employees should be permitted to bring whistleblower cases to the District Court under certain circumstances.

Witnesses: Rajesh De, Deputy Assistant Attorney General, Office of Legal Policy, U.S. Department of Justice; William L. Bransford, General Counsel, Senior Executives Association; Danielle Brian, Executive Director, Project on Government Oversight; Thomas Devine, Legal Director, Government Accountability Project; and Robert G. Vaughn, Professor of Law, Washington College of Law, American University.

Protecting Our Employees: Pandemic Influenza Preparedness and the Federal Workforce, June 16, 2009

The hearing examined the preparedness of Federal agencies to protect the Federal workforce and continue their essential functions in the event of a pandemic influenza. In particular, the hearing focused on issues identified by the U.S. Government Accountability Office in a report on that subject requested by the Subcommittee.

GAO found that while all of the agencies it surveyed are taking steps to protect their workers in the event of a pandemic influenza, the progress is uneven, and some agencies are only in the early stages of developing their pandemic plans. Moreover, according to the GAO report, there is no mechanism in place to track the Federal agencies’ progress in workforce preparedness efforts.

The hearing reviewed the work that the Department of Homeland Security, the Department of Health and Human Services, the

Office of Personnel Management, and the White House Security Council are doing to ensure that Federal agencies are prepared to continue their essential functions in the event of a pandemic influenza. However, it became clear from the witnesses' testimony that there was no "lead agency" on this matter. Moreover, witnesses from both the American Federation of Government Employees and the National Treasury Employees Union testified that Federal employees were receiving conflicting guidance from the Department of Homeland Security and on-site supervisors regarding steps that they were permitted to take to protect themselves from influenza infection at the workplace.

The witnesses were: Hon. Elaine C. Duke, Under Secretary for Management, U.S. Department of Homeland Security; W. Craig Vanderwagen, M.D., Assistant Secretary for Preparedness and Response, U.S. Department of Health and Human Services; Nancy H. Kichak, Associate Director, Strategic Human Resource Policy Division, U.S. Office of Personnel Management; Bernice Steinhardt, Director for Strategic Issues, U.S. Government Accountability Office; T.J. Bonner, President, National Border Patrol Council, American Federation of Government Employees AFL-CIO; and Maureen Gilman, Legislative Director, National Treasury Employees Union.

D.C. Public Schools: Taking Stock of Education Reform, July 23, 2009

The hearing was the third in a series of hearings held by the Subcommittee to examine the reforms of D.C. Public Schools that have resulted from the D.C. Public Education Reform Amendment Act of 2007. The Reform Act permitted Mayor Fenty to assume control of DCPS, established DCPS as a cabinet-level agency administered by a Chancellor, and created an Office of the Deputy Mayor of Education, headed by the Deputy Mayor for Education.

The hearing examined the findings of the U.S. Government Accountability Office long-term study on the status of those DCPS reforms titled, *District of Columbia Public Schools: Important Steps Taken to Continue Reform Efforts, But Enhanced Planning Could Improve Implementation and Sustainability*. In particular, the Subcommittee examined efforts to increase and measure student achievement, improve teacher and principal quality, increase strategic planning and systematic stakeholder involvement, and improve accountability in both the DCPS and State Superintendent's central offices. The hearing highlighted the need for the District of Columbia to increase stakeholder involvement in DCPS reforms and to link individual performance evaluations to the agency's goals in order to effectively implement the reforms.

The witnesses were: Michelle Rhee, Chancellor, D.C. Public Schools; Victor Reinoso, Deputy Mayor for Education, District of Columbia; Kerri L. Briggs, Ph.D., Acting State Superintendent of Education for the District of Columbia; Cornelia M. Ashby, Director of Education, Workforce, and Income Security Issues, U.S. Government Accountability Office.

Strengthening the Federal Acquisition Workforce: Government-wide Leadership and Initiatives, August 5, 2009

The hearing reviewed the status of efforts to strengthen the Federal acquisition workforce against the backdrop of dramatic growth in contracting spending, a static size of the Federal acquisition workforce, and an expected wave of retirements within that workforce. In particular, the hearing examined whether the Administration is providing effective government-wide leadership and coordination on acquisition workforce issues and whether agencies with significant contract expenditures have the tools they need to build sufficient internal capacity to oversee mission-critical contracts.

The Subcommittee found that the Office of Management and Budget, the Office of Personnel Management, and the General Services Administration are working to address these workforce challenges, including developing OMB guidance to require agencies to address the weaknesses of their acquisition workforces. However, the Subcommittee found some agencies with significant contracting expenditures lack coordination between their acquisition and human resources offices, which results in a lack of awareness of the tools available to them to hire and retain the acquisition workforce needed to achieve their missions. The hearing witnesses were supportive of efforts to improve the Federal hiring process and the purposes of Senator Akaka's Federal Hiring Process Improvement Act of 2009 (S. 736).

The witnesses were: Hon. Jeffrey D. Zients, Deputy Director for Management and Chief Performance Officer, Office of Management and Budget; Nancy H. Kichak, Associate Director, Strategic Human Resource Policy, U.S. Office of Personnel Management; David A. Drabkin, Acting Chief Acquisition Officer, U.S. General Services Administration; Hon. Elaine C. Duke, Under Secretary for Management, U.S. Department of Homeland Security; William P. McNally, Assistant Administrator for Procurement and Deputy Chief Acquisition Officer, National Aeronautics and Space Administration; John R. Bashista, Deputy Director, Office of Procurement and Assistance Management, U.S. Department of Energy; and Deidre A. Lee, Executive Vice President of Federal Affairs and Operations, Professional Services Council.

Security Clearance Reform: Moving Forward on Modernization, September 15, 2009

This hearing updated the Subcommittee on progress made to reform the security clearance process in response to recommendations and initiatives of the Joint Security and Suitability Reform Team over the past year. This was the Subcommittee's sixth hearing on the clearance process.

In 2005, the U.S. Government Accountability Office placed the Department of Defense Security Clearance process on the GAO High-Risk List due to a mounting backlog of clearance requests, as well as DoD's inability to manage the backlog. Shortly thereafter, DoD transferred the investigative role for clearances to the U.S. Office of Personnel Management. Since then, GAO has testified that there are overarching problems with the government-wide personnel security clearances.

In a 2008 memo from President Bush, a Joint Reform Team was created and instructed, under the direction of OMB, to submit an initial report outlining how to improve the security clearance process along with executive and legislative actions to implement such reforms. The group submitted its initial report and recommendations on April 30, 2008. On June 30, 2008, President Bush issued Executive Order 13467, which formalized the Joint Reform Team's recommended reforms and established a Suitability and Security Clearance Performance Accountability Council to lead government-wide reform efforts.

Since the creation of the PAC, through increased effort and a surge in investigative capacity, clearance backlogs diminished greatly and timeliness has improved. As of the hearing, OPM was on track to meet the 2009 benchmark of completing 90 percent of investigations within an average of 40 days. However, there has been relatively little change in the technology in use in the clearance process since it was placed on the High-Risk List. Many of the systems are last generation technologies that do not have modern capabilities that could speed the clearance process and take advantage of electronic investigation sources.

The witnesses were: Hon. Jeffrey D. Zients, Deputy Director for Management, Office of Management and Budget; Hon. John Berry, Director, U.S. Office of Personnel Management; Hon. James R. Clapper, Under Secretary of Defense for Intelligence, U.S. Department of Defense; David R. Shedd, Deputy Secretary of National Intelligence for Policy, Plans and Requirements, U.S. Office of the Director of National Intelligence; and Brenda S. Farrell, Director, Defense Capabilities and Management, U.S. Government Accountability Office.

A Review of U.S. Diplomatic Readiness: Addressing the Staffing and Foreign Language Challenges Facing the Foreign Service, September 24, 2009

At the request of this Subcommittee, the U.S. Government Accountability Office undertook two reviews of diplomatic readiness at the U.S. Department of State. First, GAO analyzed experience and staffing gaps that may complicate the Department of State's efforts in conducting foreign policy at its overseas posts. Second, GAO reviewed language proficiency shortfalls at the Department's missions abroad. This hearing focused on the findings and recommendations from those reviews.

The State Department's diplomats help formulate and lead the implementation of the Nation's foreign policy, and they represent the United States abroad through public outreach, consular services, economic relations, and other activities. Diplomatic readiness, which the Department defines as "its ability to get the right people in the right place at the right time with the right skills to carry out America's foreign policy," provides the U.S. these capabilities. Over the past decade, many challenges have confronted U.S. diplomatic readiness, including significant staffing challenges such as language proficiency gaps among Foreign Service officers in regions vital to U.S. interests, the reassignment of diplomats from lower- to higher-priority missions, and experience gaps at hardship posts.

Witnesses discussed ongoing language gaps within the Foreign Service, obstacles to improving language proficiency, the impact of having junior FSOs filling more senior roles, plans to increase the number of FSOs, and the need for a strategic plan to address State Department language proficiency shortfalls.

The witnesses were: Ambassador Nancy J. Powell, Director General of the Foreign Service and Director of Human Resources, U.S. Department of State; Jess T. Ford, Director, International Affairs and Trade, U.S. Government Accountability Office; Ambassador Ronald E. Neumann (Ret.), President, American Academy of Diplomacy; and Susan R. Johnson, President, American Foreign Service Association.

The Diplomat's Shield: Diplomatic Security in Today's Word, December 9, 2009

At the request of the Subcommittee, the U.S. Government Accountability Office reviewed the U.S. Department of State's Bureau of Diplomatic Security. This hearing examined GAO's findings and recommendations, and built upon relevant findings from the September 2009 Subcommittee hearing on diplomatic readiness and the September 2008 Subcommittee hearing on U.S. public diplomacy efforts.

The State Department's Bureau of Diplomatic Security is responsible for the protection of people, property, and information at more than 285 State Department missions overseas and 122 domestic facilities. Since the attacks on the U.S. Embassies in Kenya and Tanzania in 1998 and the September 11, 2001, terrorist attacks on the United States, Diplomatic Security's mission, resources, and personnel have grown significantly.

The hearing focused on DS's preparation for an increased diplomatic presence in Afghanistan, language proficiency shortfalls among Regional Security Officers, experience gaps at key domestic and international posts, the balance of security and diplomacy, and recommendations to improve the security of diplomats in the field.

The witnesses were: Ambassador Eric J. Boswell, Assistant Secretary of State for Diplomatic Security, U.S. Department of State; Jess T. Ford, Director, International Affairs and Trade, U.S. Government Accountability Office; Ambassador Ronald E. Neumann (Ret.), President, American Academy of Diplomacy; and Susan R. Johnson, President, American Foreign Service Association.

One DHS, One Mission: Efforts to Improve Management Integration at the Department of Homeland Security, December 15, 2009

The hearing reviewed the status of the U.S. Department of Homeland Security's efforts to integrate and effectively manage the Department given the significant challenges remaining from the merger of 22 former agencies and offices into one organization with critical missions to the safety of our Nation. In particular, the hearing examined the results of a U.S. Government Accountability Office report, Department of Homeland Security: Actions Taken Toward Management Integration, But a Comprehensive Strategy Still Needed, which was released in conjunction with the hearing, as well as recent DHS Office of Inspector General reports on functional management weaknesses of the Department.

The Subcommittee found that DHS continues to face significant management challenges despite some measurable progress. The DHS OIG testified that all four key functional management areas (acquisitions, information technology, grants, and financial management) have ongoing weaknesses, with most areas making only modest or moderate progress in all areas measured during fiscal year 2009. These weaknesses directly affect the Department's ability to perform its mission and are exacerbated by the lack of management integration identified by the GAO.

The GAO testified that, despite its recommendation in 2005 and a statutory requirement enacted in 2007, DHS has yet to create a comprehensive strategy for management integration. Without such a plan, DHS does not systematically prioritize and identify trade-offs and links between initiatives, or establish specific implementation goals and a timeline to monitor progress of the initiatives. GAO again recommended that DHS create a comprehensive strategic plan for management integration, along with performance measures that can be incorporated and communicated to all levels of management. GAO also noted that the Under Secretary for Management may have inadequate authority and suggested support for the Effective Security Management Act (S. 872), which Senators Voinovich and Akaka introduced to elevate the Under Secretary for Management to a Deputy Secretary with a term appointment to ensure management continuity. Under Secretary Duke highlighted the management accomplishments of the Department, most recently increasing its acquisition workforce and improving contracting processes. The Under Secretary committed to creating a strategic management integration plan. Toward that end, she promised to identify the key elements of the plan before the end of 2009, and to meet with GAO in February 2010 to gather input, discuss progress, and report on the status of implementing GAO's recommendations.

The witnesses were: Hon. Elaine C. Duke, Under Secretary for Management, U.S. Department of Homeland Security; Anne L. Richards, Assistant Inspector General for Audits, U.S. Department of Homeland Security; Bernice Steinhardt, Director for Strategic Issues, U.S. Government Accountability Office.

Assessing Foster Care and Family Services in the District of Columbia: Challenges and Solutions, March 16, 2010

This hearing assessed the status of ongoing initiatives to reform the child welfare system in the District of Columbia and examined proposals to improve foster care and adoption practices in the District. Senator Landrieu, Co-Chair of the Senate Caucus on Foster Youth, joined the Subcommittee for the hearing. In addition to dealing with challenges facing the child welfare system, youth witnesses highlighted the importance and urgency of this issue by sharing their personal experiences as foster youth within the system.

Panel 1 Witnesses: Roque R. Gerald, Psy.D., Director, District of Columbia Child and Family Services Agency; Chief Judge Lee F. Satterfield, Superior Court of the District of Columbia; Judith W. Meltzer, Deputy Director, Center for the Study of Social Policy.

Panel 2 Witnesses: Judith Sandalow, Executive Director, Children's Law Center; Sarah M. Ocran, Vice President, Foster Care Campaign, Young Women's Project; and Dominique Jacqueline Davis, Former District of Columbia Foster Youth.

Deployed Federal Civilians: Advancing Security and Opportunity in Afghanistan, April 14, 2010

Federal civilian employees carry out critical functions internationally that support combat operations and stabilization efforts and aid in reconstruction efforts. Just as military personnel readiness is crucial in meeting mission requirements, it is important to support the readiness of these civilians.

This hearing reviewed key agencies' efforts to strengthen their support for Federal civilians serving in conflict zones, with a particular focus on current and future initiatives related primarily to the deployment of civilians to Afghanistan. Areas that need focused attention include their pre-deployment training, in theater support and assignments, and medical care and compensation provided for service while in harm's way.

Witnesses: Hon. John Berry, Director, U.S. Office of Personnel Management; Ambassador Patrick F. Kennedy, Under Secretary for Management, U.S. Department of State; Hon. Clifford L. Stanley, Under Secretary for Personnel and Readiness, U.S. Department of Defense; and Janet St. Laurent, Managing Director, Defense Capabilities and Management, U.S. Government Accountability Office.

After the Dust Settles: Examining Challenges and Lessons Learned in Transitioning the Federal Government, April 22, 2010

The 2008-2009 presidential transition took place as the Federal Government faced unprecedented economic challenges, national security threats, and major management challenges. In September 2008, the Subcommittee held two hearings in examining these challenges to ensure that the Administration was prepared.

The first panel of this hearing provided the Subcommittee with the General Services Administration's views on the transition, due to its role of facilitating logistics and administrative support during the transition. GSA testified that it facilitates a "hit the ground running" mentality in which the incoming Administration is able to effectively take on their governing responsibilities.

The second panel provided additional insight into the workings of the transition by providing the views of key leaders for the incoming transition team and the outgoing Administration. The hearing also discussed the Pre-Election Presidential Transition Act of 2010 (S. 3196), which encouraged advanced transition planning and provided additional resources for incoming and outgoing Administrations.

Panel 1 Witness: Gail T. Lovelace, Chief Human Capital Officer, U.S. General Services Administration.

Panel 2 Witnesses: Hon. Clay Johnson, III, Former Deputy Director for Management, U.S. Office of Management and Budget (2003-2009); Hon. John D. Podesta, President and Chief Executive Officer, Center for American Progress Action Fund; and Max Stier,

President and Chief Executive Officer, Partnership for Public Service.

Developing Federal Employees and Supervisors: Mentoring, Internships, and Training in the Federal Government, April 29, 2010

The Federal Government is expected to face one of the largest retirement waves in the Nation's history within the next 5 years, during which more than half of the Federal employees will be eligible to retire. These expected retirements increase the importance of providing Federal employees and supervisors the training they need to effectively and efficiently carry out government programs.

This hearing addressed the Federal Government's efforts to train and develop Federal employees and supervisors, including efforts to recruit and mentor recent college graduates.

Panel 1 Witnesses: Nancy H. Kichak, Associate Director and Chief Human Capital Officer, U.S. Office of Personnel Management; and Marilee Fitzgerald, Director, Workforce Issues and International Programs, U.S. Department of Defense.

Panel 2 Witnesses: Colleen M. Kelley, National President, National Treasury Employees Union; J. David Cox, Sr., National Secretary-Treasurer, American Federation of Government Employees, AFL-CIO, (AFGE); John Palguta, Vice President for Policy, Partnership for Public Service; and Laura K. Mattimore, Ph.D., Director of Leadership Development, Proctor & Gamble.

Work-life Programs: Attracting, Retaining and Empowering the Federal Workforce, May 4, 2010

This hearing coincided with Public Service Recognition Week, and built upon the year's theme of "Innovation and Opportunity," by examining how the Federal Government can use best-practice work-life programs to improve Federal employee engagement and satisfaction. The hearing focused on programs that may improve work-life balance, including alternative work schedules, telework, the Office of Personnel Management's Results Only Work Environment programs, paid parental leave, and workplace wellness programs.

Witnesses discussed current Federal work-life programs and their importance for retaining current employees, attracting high-performing new employees, and increasing the health and productivity of our Federal workforce. Testimony also included a discussion of industry and government best practices, the economic benefits of work-life flexibility arrangements, and barriers to wider use of these programs at Federal agencies.

Panel 1 Witnesses: Cecilia E. Rouse, Member, Council of Economic Advisers; and Jonathan Foley, Senior Advisor to the Director, U.S. Office of Personnel Management.

Panel 2 Witnesses: Kathleen M. Lingle, Executive Director, Alliance for Work-Life Progress at WorldatWork; Max Stier, President and CEO, Partnership for Public Service; Colleen M. Kelley, National President, National Treasury Employees Union; and Jonathan P. Flynn, Vice President, American Federation of Government Employees, AFL-CIO.

Balancing Act: Efforts to Right-Size the Federal Employee-to-Contractor Mix, May 20, 2010

Although the Federal Government has long relied on the private sector for needed commercial services, in recent years it has been widely criticized for contracting out services that may be inherently governmental functions. Efforts are underway to have Federal agencies re-balance their Federal employee-to-contractor workforce. To assist in this process, the Administration began reexamining the definition of an “inherently governmental function” and what jobs or functions should be insourced.

Witnesses testified that some agencies had contracted out functions that should be performed by Federal employees, and that the line between work that may be contracted out and work that must be performed by Federal employees had been blurred. The Administration was in the process of clarifying the rules, evaluating contracted positions, and remedying imbalances.

Panel 1 Witnesses: Hon. Daniel I. Gordon, Administrator, Office of Federal Procurement Policy, Office of Management and Budget; Jeffrey R. Neal, Chief Human Capital Officer, U.S. Department of Homeland Security; Charles D. Grimes, III, Deputy Associate Director, Employee Services, U.S. Office of Personnel Management; and John K. Needham, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office.

Panel 2 Witnesses: Maureen Gilman, Legislative Director, National Treasury Employees Union; Alan Chvotkin, Executive Vice President and Counsel, Professional Services Council; and Mark Whetstone, President, National Citizenship and Immigration Services Council, American Federation of Government Employees, AFL-CIO.

The National Security Personnel System and Performance Management in the Federal Government, June 9, 2010

The National Defense Authorization Act for Fiscal Year 2010 repealed the National Security Personnel System at the Department of Defense. Under the law, DOD employees must be transitioned back to a personnel system in which they were previously enrolled, or would have been enrolled had NSPS never existed, by no later than January 1, 2012. In addition to repealing NSPS, the NDAA provided DOD with certain personnel flexibilities, including the authority to create a new performance management system at DOD in coordination with the Office of Personnel Management. This hearing addressed the transition of approximately 226,000 DOD employees out of NSPS and the steps DOD plans to take in coordination with OPM regarding its performance management system.

Panel 1 Witnesses: John H. James, Jr., Director, National Security Personnel System Transition Office, U.S. Department of Defense; and Charles D. Grimes, III, Deputy Associate Director for Employee Services, U.S. Office of Personnel Management.

Panel 2 Witnesses: Gregory J. Junemann, President, International Federation of Professional and Technical Engineers AFL-CIO, CLC; Patricia Niehaus, National President, Federal Managers Association; and Patricia Viers, President, Local 1148, American Federation of Government Employees, AFL-CIO.

The Federal Government's Role in Empowering Americans to Make Informed Financial Decisions, July 15, 2010

This hearing reviewed the progress of the Financial Literacy and Education Commission and examined the effectiveness of Federal financial literacy programs. The hearing also focused on preparations for implementation of several investor financial literacy and investor protection provisions that Chairman Akaka successfully sought to include in the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Panel 1 Witnesses: Michael Barr, Assistant Secretary for Financial Institutions, U.S. Department of the Treasury; Christine Griffin, Deputy Director, U.S. Office of Personnel Management; Brenda Dann-Messier, Assistant Secretary, Office of Vocational and Adult Education, U.S. Department of Education; Marianna LaCanfora, Assistant Deputy Commissioner, Retirement and Disability Policy, Social Security Administration; and Sandra L. Thompson, Director, Division of Supervision and Consumer Protection, Federal Deposit Insurance Corporation.

Panel 2 Witnesses: Barbara Roper, Director of Investor Protection, Consumer Federation of America; and Lynne Egan, Deputy Securities Commissioner, Montana Office of State Auditor, on behalf of the North American Securities Administrators Association.

High-Risk Logistics Planning: Progress on Improving Department of Defense Supply Chain Management, July 27, 2010

This was the fourth hearing the Subcommittee has held on Department of Defense supply chain management, which has been listed on the Government Accountability Office's High-Risk List of Federal Government programs since 1990. Although DOD has demonstrated progress at improving supply chain management, it continues to face many challenges to effectively and efficiently supplying our warfighters.

DOD testified that it has made substantial and measurable improvements that have mitigated the high-risk designation, and that DOD's Logistics Strategic Plan serves as a framework for continued improvement. However, GAO concluded that the Strategic Plan fell short of providing a comprehensive and integrated strategy to address logistics problems department-wide. According to GAO, the Strategic Plan did not identify the scope of logistics problems or gaps in logistics capabilities, include clear and specific performance measures to assess progress made, or clearly define how the Strategic Plan would be integrated into the Department's logistics decision-making processes.

Witnesses: Alan F. Estevez, Principal Deputy Assistant Secretary of Defense for Logistics and Materiel Readiness, U.S. Department of Defense; and Jack E. Edwards and William Solis, Directors, Defense Capabilities and Management, U.S. Government Accountability Office.

Closing the Language Gap: Improving the Federal Government's Foreign Language Capabilities, July 29, 2010

This hearing reviewed the current and future capabilities and needs for foreign languages at Federal agencies, particularly at the Department of Homeland Security and the Department of Defense.

The hearing also reviewed the findings and recommendations from two U.S. Government Accountability Office reports on DHS's current language capabilities and access to government programs and services for limited English proficient persons.

Changing national security threats and economic globalization have greatly increased Federal agencies' needs for personnel proficient in foreign languages. Since 2002, GAO has repeatedly highlighted language proficiency shortfalls at agencies with critical national and homeland security missions. At the hearing, GAO reported that DHS has done little to address its foreign language shortfalls and recommended that DHS conduct a comprehensive assessment of its foreign language needs and capabilities. Additionally, GAO testified that DOD has taken significant steps to enhance its language capabilities, but it does not have a comprehensive strategic plan to guide its efforts.

Other witnesses provided recommendations on improving Federal agencies' foreign language capacity, including increased inter-agency coordination of foreign language efforts and increased funding for language education programs.

Panel 1 Witnesses: David C. Maurer, Director, Homeland Security and Justice Issues, U.S. Government Accountability Office; Jeffrey R. Neal, Chief Human Capital Officer, U.S. Department of Homeland Security; and Nancy Weaver, Director, Defense Language Office, U.S. Department of Defense.

Panel 2 Witnesses: Hon. David S. Chu, Former Under Secretary for Personnel and Readiness, U.S. Department of Defense; Richard D. Brecht, Executive Director, Center for Advanced Study of Language, University of Maryland; and Dr. Dan E. Davidson, President, American Councils for International Education ACTR/ACCESS, and Elected President of the Joint National Council for Languages (JNCL).

Implementation, Improvement, and Sustainability: Management Matters at the Department of Homeland Security, September 30, 2010

This hearing examined the continued efforts to implement and transform the Department of Homeland Security, which has been on the Government Accountability Office's High-Risk List since 2003.

Witnesses discussed efforts to improve integration and management at DHS, including the results of the Quadrennial Homeland Security Review, which examines long-term strategy and priorities for homeland security and guidance for DHS capabilities, programs, and policies. DHS also discussed the Bottom-up Review, undertaken by the Deputy Secretary, which outlined priorities for DHS going forward.

The Subcommittee found that DHS has made progress, but more must be done to strengthen and integrate DHS acquisition management, information technology management, and strategic human capital management.

Panel 1 Witnesses: Hon. Jane Holl Lute, Ph.D., Deputy Secretary, U.S. Department of Homeland Security.

Panel 2 Witness: Cathleen A. Berrick, Managing Director, Homeland Security and Justice Team, U.S. Government Accountability Office.

Improving Social Security: Disability Insurance Claim Processing in Ohio, November 15, 2010

The field hearing was held in Akron, Ohio, and explored challenges posed in the processing of Social Security Disability Insurance claims, focusing on initiatives in the Ohio Office of Disability Adjudication and Review to improve processing of both initial disability claims and appeals claims. The hearing also focused on workforce and administrative challenges within the Social Security Administration, ways to continue to improve SSDI claims processing, and challenges that could jeopardize the progress that has been made.

Panel 1 Witnesses: Hon. Michael J. Astrue, Commissioner, Social Security Administration; and Hon. Patrick P. O'Carroll, Jr., Inspector General, Social Security Administration.

Panel 2 Witnesses: Richard Warsinskey, Manager, Cleveland Downtown District Office Manager and Past President, National Council of Social Security Management Associations; and D. Randall Frye, President, Association of Administrative Law Judges.

Security Clearance Reform: Setting a Course for Sustainability, November 16, 2010

This was the seventh in a series of Subcommittee hearings on the Federal Government's security clearance process.

Comprehensive reform efforts over the past several years have led to considerable progress in improving the security clearance process. Witnesses discussed efforts over the past year to improve clearance timeliness and quality, institutionalize government-wide clearance oversight, sustain progress, and further improve the clearance process in the future. At the request of the Chairman and Senator Collins earlier in 2010, agencies involved in the security clearance process had worked to develop metrics to measure various aspects of the clearance process, including investigation quality. The Government Accountability Office's witness testified that steady progress had been made in improving the process, bringing it closer to removal from GAO's High-Risk List.

Despite the progress, the Chairman noted slow progress in modernizing infrastructure related to the clearance process, which could provide even greater efficiencies.

Witnesses: Hon. Jeffrey D. Zients, Deputy Director for Management and Chief Performance Officer, U.S. Office of Management and Budget; Hon. James R. Clapper, Director of National Intelligence, Office of the Director of National Intelligence; Hon. John Berry, Director, U.S. Office of Personnel Management; Hon. Elizabeth A. McGrath, Deputy Chief Management Officer, U.S. Department of Defense; Brenda A. Farrell, Managing Director, Defense Capabilities and Management, U.S. Government Accountability Office.

II. LEGISLATION

The following bills were considered by the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia during the 111th Congress:

MEASURES ENACTED INTO LAW

P.L. 111-283, S. 3196—The Pre-Election Presidential Transition Act of 2010 amends the Presidential Transition Act of 1963 to direct the Administrator of the General Services Administration to provide certain presidential transition services and facilities, including office space, equipment, and payment of certain related expenses, to eligible presidential and vice-presidential candidates before a presidential general election. It also directs the President, or the President's delegate, to take necessary and appropriate actions to plan and coordinate activities by the Executive Branch of the Federal Government to facilitate an efficient transfer of power to a successor President. Introduced by Senator Kaufman on April 13, 2010, and referred to the Committee on Homeland Security and Governmental Affairs. Passed the Senate by Unanimous Consent on September 24, 2010. Passed the House by voice vote on September 30, 2010. Became Public Law No. 111-283 on October 15, 2010.

P.L. 111-328, H.R. 2092—The Kingman Heritage Islands Act of 2009 amends the National Children's Island Act of 1995 to allow the District of Columbia to use the lands conveyed (Kingman and Heritage Islands) and the related easements granted under such Act in accordance with a specified Anacostia Waterfront Framework Plan and a Comprehensive Plan. (Thus expands allowable uses for them by the District.) The bill also revises the terms of the reversionary interest of the United States in such properties and easements. Repeals the conditions for reversion with respect to: (1) failure to commence improvements in or operation of the recreational park; or (2) abandonment or nonuse of the park after completion of construction and commencement of operation. States that title in the Islands and the related easements shall revert back to the United States 60 days after the Secretary of Interior notifies the District in writing that a portion of the District is not using them for the recreational, environmental, or educational purposes of the National Children's Island, in accordance with the Anacostia Waterfront Framework Plan or the Comprehensive Plan.

H.R. 2092 was introduced on April 23, 2009 by Delegate Norton. Passed House on October 7, 2009 and referred to the Committee on Homeland Security and Governmental Affairs. Reported favorably with an Akaka amendment in the nature of a substitute on September 22, 2010, and passed the Senate on September 27, 2010. Modified version of the bill, H.R. 6278, with the same title, introduced on September 29, 2010, by Delegate Norton, passed the House on November 16, 2010, and passed the Senate on December 13, 2010. Became Public Law 111-328 on December 22, 2010.

P.L. 111-292, H.R. 1722, S. 707—The Telework Enhancement Act of 2010 requires each executive agency to establish a telework policy, determine and notify eligible employees, provide an interactive telework training program for eligible employees and their

managers, and ensure that teleworkers and nonteleworkers are treated the same for purposes of performance appraisals, training, retention, work requirements, or other acts involving managerial discretion. Such policies are required to: (1) ensure that telework does not diminish employee performance or agency operations; (2) require a written agreement between the agency manager and the employee; (3) exclude employees whose performance does not comply with the terms of such agreement or whose official duties require daily direct handling of secure materials or on-site activity that cannot be handled remotely or at an alternate worksite, except in emergency situations; and (4) be incorporated as part of the agency's continuity of operations plans. Introduced on March 25, 2009, and referred to the Committee on Homeland Security and Governmental Affairs. Committee on Homeland Security and Governmental Affairs ordered to be reported with an amendment on May 20, 2009. Passed Senate by Unanimous Consent on May 24, 2010. S. AMDT. 4689 to House companion bill, H.R. 1722, agreed to in House, which became Public Law No. 111-292 on December 9, 2010.

P.L. 111-84, S. 469—S. 469 amends chapter 83 of title 5, United States Code, and requires part-time service performed by a Federal employee before April 7, 1986, to be credited as full-time service for purposes of annuity computation under the Civil Service Retirement System (currently, the annuity benefit for such part-time service is prorated). Introduced by Senator Voinovich on February 25, 2009, and referred to the Committee on Homeland Security and Governmental Affairs. Ordered to be reported without amendment on May 20, 2009, and included in H.R. 2647, National Defense Authorization Act for Fiscal Year 2010, conference report, which became Public Law No. 111-84 on October 28, 2009.

P.L. 111-84, S. 507—The Non-Foreign Area Retirement Equity Assurance Act of 2009 revises Federal employee locality-based comparability payments provisions to include U.S. territories and possessions, including the Commonwealth of Puerto Rico and the Commonwealth of the Northern Mariana Islands, within a pay locality. This bill sets forth freezes Cost of Living Allowances for pay of employees stationed outside the continental United States or in Alaska as of December 31, 2009 and provides a formula for reducing such rates as locality-based comparability payments are increased. Locality-based comparability payments are phased in using a transition schedule for calendar years 2010-2012. The Non-Foreign AREA Act of 2009 also requires adjustment of special rates of pay determined to be necessary to obtain or retain the services of persons specified by statute in such a cost-of-living area in accordance with regulations to be prescribed by the Director of the Office of Personnel Management under this Act. The bill further allows a temporarily raised limitation on the amount of special rates during the transition period of January 1, 2010, to January 1, 2012. Introduced by Senator Akaka on March 2, 2009, referred to the Committee on Homeland Security and Governmental Affairs, and ordered to be reported with a clarifying amendment on April 1, 2009. Included in conference report for H.R. 2647, National Defense Authorization Act for Fiscal Year 2010, which became Public Law No. 111-84 on October 28, 2009.

P.L. 111–84, S. 674—The Federal Supervisor Training Act of 2010 revises provisions relating to specific training programs for Federal agency supervisors. The bill requires the head of each Federal agency to establish: (1) a program to provide training to supervisors on developing and discussing relevant goals and objectives with the employee, communicating and discussing progress on performance goals and objectives and conducting performance appraisals, mentoring and motivating employees and improving employee performance and productivity, fostering a work environment characterized by fairness, respect, equal opportunity, and attention paid to the merit of the work of employees, effectively managing employees with unacceptable performance, and addressing reports of a hostile work environment, reprisal, or harassment; (2) a program to provide training to supervisors on prohibited personnel practices, employee collective bargaining and union participation rights, and processes to enforce employee rights; and (3) a program under which experienced supervisors mentor new supervisors. S. 674 also requires supervisors to complete such programs every 3 years. The legislation further requires the Director of the Office of Personnel Management to issue guidance to Federal agencies on competencies supervisors are expected to meet in order to effectively manage, and be accountable for managing, the performance of employees. Lastly, each agency is required to: (1) develop competencies to assess the performance of each supervisor; (2) assess the overall capacity of the supervisors in the agency to meet such guidance; (3) develop and implement a supervisor training program to strengthen issues identified during such assessment; and (4) measure the effectiveness of that program in improving supervisor competence. Introduced on March 24, 2009, and referred to the Committee on Homeland Security and Governmental Affairs. Ordered to be reported favorably on June 24, 2010. Some provisions of S. 674 were included in conference report for H.R. 2647, National Defense Authorization Act for Fiscal Year 2010, which became Public Law No. 111–84 on October 28, 2009.

MEASURES FAVORABLY REPORTED BY THE SUBCOMMITTEE AND
PASSED BY THE SENATE

S. 372—The Whistleblower Protection Enhancement Act of 2010 amends Federal personnel law relating to whistleblower protections to provide that such protections shall apply to a disclosure of any violation of law, except for an alleged violation that is a minor, inadvertent violation that occurs during the conscientious carrying out of official duties. S. 372 provides that a disclosure shall not be excluded from whistleblower protections because: (1) the disclosure was made during the normal course of the employee's duties; (2) the disclosure was made to a person, including a supervisor, who participated in the activity; (3) the disclosure revealed information that had been previously disclosed; (4) of the employee or applicant's motive for making the disclosure; (5) the disclosure was not made in writing; (6) the disclosure was made while the employee was off duty; or (7) of the amount of time which has passed since the occurrence of the events described in the disclosure. Introduced on February 2, 2009, referred to the Committee on Homeland Security and Governmental Affairs, and ordered to be reported with an

amendment in the nature of a substitute on July 29, 2009. Passed Senate with an Akaka amendment by unanimous consent on December 10, 2010. Passed the House with amendments by unanimous consent on December 22, 2010, but differences were not resolved before the Congress adjourned.

S. 736—The Federal Hiring Process Improvement Act of 2010 requires the head of each executive agency (excluding the Government Accountability Office) to develop a strategic workforce plan as part of the agency performance plan, to include: (1) hiring projections; (2) strategic human capital planning to address critical skills deficiencies; (3) recruitment strategies to attract highly qualified candidates from diverse backgrounds; (4) streamlining the hiring process; and (5) a specific analysis of the contractor workforce, the need to adjust the balance between work being performed by the Federal workforce and the contractor workforce, and the capacity of the agency to manage employees who are not Federal employees and are doing the work of the government. Further, each agency's strategic workforce plan is required to be submitted to the Office of Personnel Management; and (2) OPM is required to develop a government-wide strategic workforce plan based on such agency plans, update it annually, and make it available to the President, Congress, and the public. Introduced on March 30, 2009, and referred to the Committee on Homeland Security and Governmental Affairs. Ordered to be reported with an amendment in the nature of a substitute on July 29, 2009. Passed Senate with an amendment by Unanimous Consent on May 18, 2010. Some provisions of S. 736 required under Presidential Memorandum, "Improving the Federal Recruitment and Hiring Process, issued on May 11, 2010."

S. 806—The Federal Executive Board Authorization Act of 2009 statutorily authorizes Federal Executive Boards, which are defined as interagency entities established in a geographic area with a high concentration of Federal employees outside the Washington, D.C. metropolitan area, to strengthen the management and Administration of agency activities and coordination among local Federal officers to implement national initiatives in that area. S. 806 requires each FEB to consist of a senior officer for each agency in that area. Each FEB is required to: (1) serve as an instrument of outreach for the national headquarters of agencies relating to agency activities in the geographic area; (2) provide a forum for the exchange of information relating to programs and management methods and problems between the national headquarters of agencies and the field; (3) develop local coordinated approaches to the development and operation of programs that have common characteristics; (4) communicate management initiatives and other concerns from Federal officers and employees in the Washington, D.C. area to Federal officers and employees in the geographic area to achieve better mutual understanding and support; (5) develop relationships with State and local governments and nongovernmental organizations to help fulfill the roles and responsibilities of that FEB; and (6) facilitate communication, collaboration, and training to prepare the Federal workforce for emergencies and continuity of operations. Further, the bill requires the Office of Personnel Management to: (1) establish a fund within OPM for financing essential FEB functions, into which contributions from the headquarters of each partici-

pating agency shall be deposited; (2) submit annual reports to Congress and agencies on FEB program outcomes and budget matters; and (3) report to specified congressional committees on essential FEB functions, staffing requirements, and staffing and operating expenses. Introduced by Senator Voinovich on April 2, 2009. Passed the Senate with an amendment by Unanimous Consent on November 5, 2009. Received in the House and referred to the House Committee on Oversight and Government Reform on November 16, 2009. Ordered to be reported favorably on April 14, 2010.

MEASURES REFERRED TO THE SUBCOMMITTEE ON WHICH HEARINGS
WERE HELD OR OTHER LEGISLATIVE ACTION WAS TAKEN

H.R. 1345—The District of Columbia Hatch Act Reform Act of 2010 amends the Federal law commonly referred to as the “Hatch Act” (concerning political activities of Federal, State, and local employees) to: (1) include the District of Columbia or an agency or department thereof within the definition of a “State or local agency” under such Act; (2) ensure that individuals employed by an educational or research institution, establishment, agency, or system supported in whole or in part by the District are exempt from Hatch Act restrictions; (3) exempt the duly elected head of an executive department of the District who is not classified under the District’s merit or civil-service system from the prohibition against being a candidate for elective office; and (4) direct the Merit Systems Protection Board to issue an order to withhold Federal funds upon finding that a District employee ordered removed for violating the Hatch Act has been reappointed in the District within 18 months. Passed House on September 8, 2009 and referred to the Homeland Security and Governmental Affairs Committee. Reported favorably with an Akaka amendment in the nature of a substitute on May 17, 2010.

S. 599—The Federal Firefighters Fairness Act of 2009 amends chapter 81 of title 5, United States Code, to create a presumption that a disability or death of a Federal employee in fire protection activities caused by any certain diseases is the result of the performance of such employee’s duty. On March 25, 2009, S. 599 was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. Reported favorably with a Coburn amendment on May 20, 2009.

MEASURES WHICH DID NOT ADVANCE BEYOND REFERRAL TO
SUBCOMMITTEE

H.R. 626—The Federal Employees Paid Parental Leave Act of 2009 allows Federal employees to substitute any available paid leave for any leave without pay available for the birth of a child or placement of a child with the employee for either adoption or foster care. It further provides that four of the 12 weeks of parental leave made available to a Federal employee shall be paid leave. H.R. 626 also authorized the Director of the Office of Personnel Management to promulgate regulations to increase the amount of paid parental leave available to such an employee to a total of eight administrative workweeks, based on the consideration of: (1)

the benefits to the Federal Government, including enhanced recruitment and employee retention; (2) the cost to the government; (3) trends in the private sector and in State and local governments; (4) the Federal Government's role as a model employer; and (5) the impact of increased paid parental leave on lower-income and economically disadvantaged employees and their children. The bill also amends the Congressional Accountability Act of 1995 and the Family and Medical Leave Act of 1993 to allow the same substitution for covered congressional employees, Government Accountability Office employees, and Library of Congress employees. Counts certain service by an employee of the Executive Branch, Congress, GAO, or the Library of Congress while on active duty as a member of the National Guard or Reserves as service for that branch or agency for purposes of determining such employee's eligibility to take or substitute leave as provided under this Act. Introduced by Representative Maloney on January 22, 2009, and passed the House of Representatives on June 4, 2009. On October 19, 2009, the bill was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.

H.R. 3913—H.R. 3913 amends the District of Columbia Code to direct the Mayor of the District of Columbia, in coordination with the commanding general of the District of Columbia National Guard, to establish a program that allows the Mayor to provide educational assistance to members of the District of Columbia National Guard who have satisfactorily completed their initial active duty service and agree to serve for at least 6 years. Introduced by Representative Norton on October 22, 2009, and passed the House of Representatives on June 28, 2010. On July 26, 2010, H.R. 3913 was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.

S. 50—The Clinical Social Workers' Recognition Act of 2009 amends Federal law concerning Federal workers' compensation to authorize the use of clinical social workers to conduct evaluations to determine work-related emotional and mental illnesses. On March 20, 2009, S. 50 was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.

S. 354—The Federal Employees Paid Parental Leave Act of 2009 allows Federal employees to substitute any available paid leave for any leave without pay available for either the: (1) birth of a child; or (2) placement of a child with the employee for either adoption or foster care. Makes available (subject to specified requirements) for any of the 12 weeks of leave an employee is entitled to for such purposes: (1) four eight administrative weeks of paid parental leave in connection with the birth or placement involved; and (2) any accumulated annual or sick leave. Furthermore, the bill authorizes the Director of the Office of Personnel Management to promulgate regulations to increase the amount of paid parental leave available to such an employee to a total of eight administrative workweeks, based on the consideration of: (1) the benefits to the Federal Gov-

ernment, including enhanced recruitment and employee retention; (2) the cost to the government; (3) trends in the private sector and in State and local governments; and (4) the Federal Government's role as a model employer. S. 354 amends the Congressional Accountability Act of 1995 and the Family and Medical Leave Act of 1993 to allow the same substitution for covered congressional employees, Government Accountability Office employees, and Library of Congress employees. On March 20, 2009, S. 354 was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia.

S. 763—The Mortgage and Rental Disaster Relief Act of 2009 amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to provide temporary assistance in the form of mortgage or rental payments to or on behalf of individuals and households who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence because of a foreclosure of mortgage or lien, cancellation of sales contract, or lease termination, entered into before such disaster. S. 763 was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on April 23, 2009.

S. 1180—The Senior Executive Service Diversity Assurance Act of 2009 requires the Director of the Office of Personnel Management to establish within OPM the Senior Executive Service Resource Office. The legislation makes it the mission of the SES Resource Office to: (1) improve the efficiency, effectiveness, and productivity of the Senior Executive Service through policy formulation and oversight; (2) advance the professionalism of the SES; and (3) recruit qualified individuals from appropriate sources to ensure that the SES is reflective of the nation's diversity. The bill also sets forth the functions of the SES Resource Office with respect to the management, training, oversight, and recruitment activities of the SES. S. 1180 further revises the career appointments recruiting process to require agency heads to ensure diversity of executive resources boards and any subgroup or other evaluation panel related to the merit staffing process for career appointees by including members of racial and ethnic minority groups, women, and individuals with disabilities. Lastly, the legislation requires each Federal agency to submit to OPM a plan to enhance and maximize opportunities for the advancement and appointment of minorities, women, and individuals with disabilities to the SES. The bill was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on July 16, 2009.

S. 1228—S. 1228 modifies the rate of accrual of annual leave for administrative law judges, contract appeals board members, and immigration judges to accrue at the same rate as Senior Executive Service employees. S. 1228 was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on July 16, 2009.

S. 3341—The FEHBP Dependent Coverage Extension Act extends eligibility for coverage under the Federal Employees Health Benefits Program to a Federal employee's, annuitant's, or former spouse's dependent child who is under age 26, or incapable of self-support because of mental or physical disability which existed before age 26. The bill was referred to the Committee on Homeland Security and Governmental Affairs, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on June 30, 2010.

S. 3365—S. 3365 is a bill to amend section 5542 of title 5, United States Code, to provide that any hours worked by Federal firefighters under a qualified trade-of-time arrangement shall be excluded for purposes of determinations relating to overtime pay. The bill was referred to the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia, Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia on June 30, 2010.

III. GAO REPORTS

The following reports were issued by the Government Accountability Office at the request of the Chairman, and Senator Akaka, the Ranking Member of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia during the 111th Congress:

Defense Logistics: Lack of Key Information May Impede DOD's Ability to Improve Supply Chain Management, GAO-09-150, January 12, 2009.

Veterinarian Workforce: Actions are Needed to Ensure Sufficient Capacity for Protecting Public and Animal Health, GAO-09-178, February 4, 2009.

Nuclear Nonproliferation: Strengthened Oversight Needed to Address Proliferation and Management Challenges in IAEA's Technical Cooperation Program, GAO-09-275, March 5, 2009.

Department of Defense: Additional Actions and Data Are Needed to Effectively Manage and Oversee DOD's Acquisition Workforce, GAO-09-342, March 25, 2009.

Foreign Aid Reform: Comprehensive Strategy, Interagency Coordination, and Operational Improvements Would Bolster Current Efforts, GAO-09-192, April 17, 2009.

DOD Personnel Clearances: Comprehensive Timeliness Reporting, Complete Clearance Documentation, and Quality Measures are needed to Further Improve the Clearance Process, GAO-09-400, May 19, 2009.

Influenza Pandemic: Increased Agency Accountability Could Help Protect Federal Employees Serving the Public in the Event of a Pandemic, GAO-09-404, June 12, 2009.

District of Columbia Public Schools: Important Steps Taken to Continue Reform Efforts, But Enhanced Planning Could Improve Implementation and Sustainability, GAO-09-619, June 26, 2009.

Department of State: Key Transformation Practices Could Have Helped in Restructuring Arms Control and Nonproliferation Bureaus, GAO-09-738, July 15, 2009.

Homeland Security: Federal Protective Service Should Improve Human Capital Planning and Better Communicate with Tenants, GAO-09-749, July 30, 2009.

Contingency Contract Management: DOD Needs to Develop and Finalize Background Screening and Other Standard for Private Contractors, GAO-09-351, July 31, 2009.

Equal Employment Opportunity: Pilot Projects Could Help Test Solutions to Long Standing Concern with EEO Complain Process, GAO-09-712, August 12, 2009.

Emergency Communications: National Communications System Provides Programs for Priority Calling, but Planning for New Initiatives and Performance Measurement Could be Strengthened, GAO-09-822, August 28, 2009.

Department of State: Additional Steps Needed to Address Continuing Staffing and Experience Gaps at Hardship Posts, GAO-09-874, September 17, 2009.

Department of State: Comprehensive Plan Needed to Address Persistent Foreign Language Shortfalls, GAO-09-955, September 17, 2009.

Department of State: Diplomatic Security's Recent Growth Warrants Strategic Review, GAO-10-156, November 12, 2009.

Department of Homeland Security: Actions Taken Toward Management Integration, but a Comprehensive Strategy Is Still Needed, GAO-10-131, November 20, 2009.

Defense Acquisitions: Further Actions Needed to Address Weaknesses in DOD's Management of Professional and Management Support Contracts, GAO-10-39, November 20, 2009.

Homeland Security: Federal Protective Service's Contract Guard Program Requires More Oversight and Reassessment of Use of Contract Guards, GAO-10-341, April 13, 2010.

International Security: DOD and State need to Improve Sustainment Planning and Monitoring and Evaluation for Section 1206 and 1207 Assistance Programs, GAO-10-431, April 15, 2010.

Language Access: Selected Agencies Can Improve Services to Limited English Proficient Persons, GAO-10-91, April 26, 2010.

Nuclear Safety: Convention on Nuclear Safety is Viewed by Most Member Countries as Strengthening Safety Worldwide, GAO-10-489, April 29, 2010.

Department of Homeland Security: DHS Needs to Comprehensively Assess Its Foreign Language Needs and Capabilities and Identify Shortfalls, GAO-10-714, June 22, 2010.

Foreign Assistance: USAID Needs to Improve Its Strategic Planning to Address Current and Future Workforce Needs, GAO-10-496, June 30, 2010.

Personnel Practices: Conversion of Employees from Political to Career Positions May 2005-2009, GAO-10-688, June 28, 2010.

Homeland Security: Addressing Weaknesses with Facility Security Committees Would Enhance Protection of Federal Facilities, GAO-10-901, August 5, 2010.

Privacy: OPM Should Better Monitor Implementation of Privacy-Related Policies and Procedures for Background Investigation, GAO-10-849, September 7, 2010.

U.S. Employment in the United Nations: State Department Needs to Enhance Reporting Requirements and Evaluate Its Ef-

forts to Increase U.S. Representation, GAO-10-1028, September 30, 2010.

Managing For Results: Opportunities to Strengthen Agencies' Customer Service Efforts, GAO-11-44, October 27, 2010.

National Security: An Overview of Professional Development Activities Intended to Improve Interagency Collaboration, GAO-11-108, November 15, 2010.

Federal Work/Life Programs: Agencies Generally Satisfied with OPM Assistance, but More Tracking and Information Sharing Needed, GAO-11-137, December 16, 2010.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CHAIRMAN: CARL LEVIN

RANKING MINORITY MEMBER: TOM COBURN

The following is the Activities Report of the Permanent Subcommittee on Investigations during the 111th Congress:

I. HISTORICAL BACKGROUND

A. SUBCOMMITTEE JURISDICTION

The Permanent Subcommittee on Investigations was originally authorized by Senate Resolution 189 on January 28, 1948. At its creation in 1948, the Subcommittee was part of the Committee on Expenditures in the Executive Departments. The Subcommittee's records and broad investigative jurisdiction over government operations and national security issues, however, actually antedate its creation, since it was given custody of the jurisdiction of the former Special Committee to Investigate the National Defense Program (the so-called "War Investigating Committee" or "Truman Committee"), chaired by Senator Harry S. Truman during the Second World War and charged with exposing waste, fraud, and abuse in the war effort and war profiteering. Today, the Subcommittee is part of the Committee on Homeland Security and Governmental Affairs.¹

The Subcommittee has had 10 chairmen: Senators Homer Ferguson of Michigan (1948), Clyde R. Hoey of North Carolina (1949–1952), Joseph R. McCarthy of Wisconsin (1953–1954), John L. McClellan of Arkansas (1955–1972), Henry M. Jackson of Washington (1973–1978), Sam Nunn of Georgia (1979–1980 and 1987–1994), William V. Roth of Delaware (1981–1986 and 1995–1996), Susan M. Collins of Maine (1997–2001); Norm Coleman of Minnesota (2003–2007); and Carl Levin of Michigan (2001–2002 and 2007–present).

Until 1957, the Subcommittee's jurisdiction focused principally on waste, inefficiency, impropriety, and illegality in government operations. Its jurisdiction then expanded over time, today encompassing investigations within the broad ambit of the parent committee's responsibility for matters relating to the efficiency and economy of operations of all branches of the government, including matters related to: (a) waste, fraud, abuse, malfeasance, and unethical practices in government contracting and operations; (b) organized criminal activities affecting interstate or international commerce; (c) criminal activity affecting the national health, welfare, or safety, including investment fraud, commodity and securities fraud, computer fraud, and offshore abuses; (d) criminality or improper practices in labor-management relations; (e) the effectiveness of present national security methods, staffing and procedures, and U.S. relationships with international organizations concerned with national security; (f) energy shortages, energy pricing, man-

¹ In 1952, the parent committee's name was changed to the Committee on Government Operations. It was changed again in early 1977, to the Committee on Governmental Affairs, and again in 2005, to the Committee on Homeland Security and Governmental Affairs, its present title.

agement of government-owned or controlled energy supplies; and relationships with oil producing and consuming countries; and (g) the operations and management of Federal regulatory policies and programs. While retaining the status of a subcommittee of a standing committee, the Subcommittee has long exercised its authority on an independent basis, selecting its own staff, issuing its own subpoenas, and determining its own investigatory agenda.

The Subcommittee acquired its sweeping jurisdiction in several successive stages. In 1957—based on information developed by the Subcommittee—the Senate passed a Resolution establishing a Select Committee on Improper Activities in the Labor or Management Field. Chaired by Senator McClellan, who also chaired the Subcommittee at that time, the Select Committee was composed of eight Senators—four of whom were drawn from the Subcommittee on Investigations and four from the Committee on Labor and Public Welfare. The Select Committee operated for 3 years, sharing office space, personnel, and other facilities with the Permanent Subcommittee. Upon its expiration in early 1960, the Select Committee's jurisdiction and files were transferred to the Subcommittee on Investigations, greatly enlarging the latter body's investigative authority in the labor-management area.

The Subcommittee's jurisdiction expanded further during the 1960s and 1970s. In 1961, for example, it received authority to make inquiries into matters pertaining to organized crime and, in 1963, held the famous Valachi hearings examining the inner workings of the Italian Mafia. In 1967, following a summer of riots and other civil disturbances, the Senate approved a Resolution directing the Subcommittee to investigate the causes of this disorder and to recommend corrective action. In January 1973, the Subcommittee acquired its national security mandate when it merged with the National Security Subcommittee. With this merger, the Subcommittee's jurisdiction was broadened to include inquiries concerning the adequacy of national security staffing and procedures, relations with international organizations, technology transfer issues, and related matters. In 1974, in reaction to the gasoline shortages precipitated by the Arab-Israeli war of October 1973, the Subcommittee acquired jurisdiction to investigate the control and management of energy resources and supplies as well as energy pricing issues.

In 1997, the full Committee on Governmental Affairs was charged by the Senate to conduct a special examination into illegal or improper activities in connection with Federal election campaigns during the 1996 election cycle. The Permanent Subcommittee provided substantial resources and assistance to this investigation, contributing to a greater public understanding of what happened, to subsequent criminal and civil legal actions taken against wrongdoers, and to enactment of campaign finance reforms in 2001.

In 1998, the Subcommittee marked the 50th anniversary of the Truman Committee's conversion into a permanent subcommittee of the U.S. Senate.² Since then, the Subcommittee has developed par-

²This anniversary also marked the first date upon which internal Subcommittee records generally began to become available to the public. Unlike most standing committees of the Senate whose previously unpublished records open after a period of 20 years has elapsed, the Perma-

ticular expertise in complex financial matters, examining the key causes of the 2008 financial crisis, structured finance abuses, financial fraud, unfair credit practices, money laundering, commodity speculation, and a wide range of offshore and tax haven abuses. It has also focused on issues involving health care fraud, foreign corruption, and waste, fraud and abuse in government programs. In the half-century of its existence, the Subcommittee's many successes have made clear to the Senate the importance of retaining a standing investigatory body devoted to keeping government not only efficient and effective, but also honest and accountable.

B. SUBCOMMITTEE INVESTIGATIONS

Armed with its broad jurisdictional mandate, the Subcommittee has conducted investigations into a wide variety of topics of public concern, ranging from corporate misconduct, including the Senate's most in-depth investigation of the Enron Corporation, to unfair energy prices, predatory lending, and tax evasion. Over the years, the Subcommittee has also conducted investigations into criminal wrongdoing, including money laundering, the narcotics trade, child pornography, labor racketeering, and organized crime activities. In addition, the Subcommittee has investigated a wide range of allegations of waste, fraud, and abuse in government programs and consumer protection issues, addressing problems ranging from unfair credit card practices to health care fraud. Most recently, the Subcommittee conducted Congress' most in-depth examination of the 2008 financial crisis, holding four hearings and issuing a 750-page bipartisan report.

(1) Historical Highlights

The Subcommittee's investigatory record as a permanent Senate body began under the Chairmanship of Republican Senator Homer Ferguson and his Chief Counsel (and future Attorney General and Secretary of State) William P. Rogers, as the Subcommittee inherited the Truman Committee's role in investigating fraud and waste in U.S. Government operations. This investigative work became particularly colorful under the chairmanship of Senator Clyde Hoey, a North Carolina Democrat who took the chair from Senator Ferguson after the 1948 elections. The last U.S. Senator to wear a long frock coat and wing-tipped collar, Mr. Hoey was a distinguished Southern gentleman of the old school. Under his leadership, the Subcommittee won national attention for its investigation of the so-called "five percenters," notorious Washington lobbyists who charged their clients 5 percent of the profits from any Federal contracts they obtained on the client's behalf. Given the Subcommittee's jurisdictional inheritance from the Truman Committee, it is perhaps ironic that the "five percenters" investigation raised allegations of bribery and influence-peddling that reached right into the White House and implicated members of President Truman's staff. In any event, the fledgling Subcommittee was off to a rapid start.

ment Subcommittee on Investigations, as an investigatory body, may close its records for 50 years to protect personal privacy and the integrity of the investigatory process. With this 50th anniversary, the Subcommittee's earliest records, housed in the Center for Legislative Archives at the National Archives and Records Administration, began to open seriatim. The records of the predecessor committee—the Truman Committee—were opened by Senator Nunn in 1980.

What began as colorful soon became contentious. When Republicans returned to the Majority in the Senate in 1953, Wisconsin's junior Senator, Joseph R. McCarthy, became the Subcommittee's Chairman. Two years earlier, as Ranking Minority Member, Senator McCarthy had arranged for another Republican Senator, Margaret Chase Smith of Maine, to be removed from the Subcommittee. Senator Smith's offense, in Senator McCarthy's eyes, was her issuance of a "Declaration of Conscience" repudiating those who made unfounded charges and used character assassination against their political opponents. Although Senator Smith had carefully declined to name any specific offender, her remarks were universally recognized as criticism of Senator McCarthy's accusations that communists had infiltrated the State Department and other government agencies. Senator McCarthy retaliated by engineering Senator Smith's removal from the Subcommittee, replacing her with the newly-elected Senator from California, Richard M. Nixon.

Upon becoming Subcommittee Chairman, Senator McCarthy staged a series of highly publicized anti-communist investigations, culminating in an inquiry into communism within the U.S. Army, which became known as the Army-McCarthy hearings. During the latter portion of those hearings, in which the parent Committee examined the Wisconsin Senator's attacks on the Army, Senator McCarthy recused himself, leaving South Dakota Senator Karl Mundt to serve as Acting Chairman of the Subcommittee. Gavel-to-gavel television coverage of the hearings helped turn the tide against Senator McCarthy by raising public concern about his treatment of witnesses and cavalier use of evidence. In December 1954, in fact, the Senate censured Senator McCarthy for unbecoming conduct. In the following year, the Subcommittee adopted new rules of procedure that better protected the rights of witnesses. The Subcommittee also strengthened the rules ensuring the right of both parties on the Subcommittee to appoint staff, initiate and approve investigations, and review all information in the Subcommittee's possession.

In 1955, Senator John McClellan of Arkansas began 18 years of service as Chairman of the Permanent Subcommittee on Investigations. Senator McClellan appointed a young Robert F. Kennedy as the Subcommittee's Chief Counsel. That same year, Members of the Subcommittee were joined by Members of the Senate Labor and Public Welfare Committee on a special committee to investigate labor racketeering. Chaired by Senator McClellan and staffed by Robert Kennedy and other Subcommittee staff members, this special committee directed much of its attention to criminal influence over the Teamsters Union, most famously calling Teamsters' leaders Dave Beck and Jimmy Hoffa to testify. The televised hearings of the special committee also introduced Senators Barry Goldwater and John F. Kennedy to the nation, as well as leading to passage of the Landrum-Griffin Labor Act.

After the special committee completed its work, the Permanent Subcommittee on Investigations continued to investigate organized crime. In 1962, the Subcommittee held hearings during which Joseph Valachi outlined the activities of La Cosa Nostra, or the Mafia. Former Subcommittee staffer Robert Kennedy—who had by

then become Attorney General in his brother's Administration—used this information to prosecute prominent mob leaders and their accomplices. The Subcommittee's investigations also led to passage of major legislation against organized crime, most notably the Racketeer Influenced and Corrupt Organizations (RICO) provisions of the Crime Control Act of 1970. Under Chairman McClellan, the Subcommittee also investigated fraud in the purchase of military uniforms, corruption in the Department of Agriculture's grain storage program, securities fraud, and civil disorders and acts of terrorism. In addition, from 1962 to 1970, the Subcommittee conducted an extensive probe of political interference in the awarding of government contracts for the Pentagon's ill-fated TFX ("tactical fighter, experimental") aircraft. In 1968, the Subcommittee also examined charges of corruption in U.S. servicemen's clubs in Vietnam and elsewhere around the world.

In 1973, Senator Henry "Scoop" Jackson, a Democrat from Washington, replaced Senator McClellan as the Subcommittee's Chairman. During his tenure, recalled Chief Clerk Ruth Young Watt—who served in this position from the Subcommittee's founding until her retirement in 1979—Ranking Minority Member Charles Percy, an Illinois Republican, became more active on the Subcommittee than Chairman Jackson, who was often distracted by his Chairmanship of the Interior Committee and his active role on the Armed Services Committee.³ Senator Percy also worked closely with Georgia Democrat Sam Nunn, a Subcommittee member who subsequently succeeded Senator Jackson as Subcommittee Chairman in 1979. As Chairman, Senator Nunn continued the Subcommittee's investigations into the role of organized crime in labor-management relations and also investigated pension fraud.

Regular reversals of political fortunes in the Senate during the 1980s and 1990s saw Senator Nunn trade the chairmanship three times with Delaware Republican William Roth. Senator Nunn served from 1979 to 1980 and again from 1987 to 1995, while Senator Roth served from 1981 to 1986, and again from 1995 to 1996. These 15 years saw a strengthening of the Subcommittee's bipartisan tradition in which investigations were initiated by either the Majority or Minority and fully supported by the entire Subcommittee. For his part, Senator Roth led a wide range of investigations into commodity investment fraud, offshore banking schemes, money laundering, and child pornography. Senator Nunn led inquiries into Federal drug policy, the global spread of chemical and biological weapons, abuses in Federal student aid programs, computer security, airline safety, and health care fraud. Senator Nunn also appointed the Subcommittee's first female counsel, Eleanor Hill, who served as Chief Counsel to the Minority from 1982 to 1986 and then as Minority Chief Counsel from 1987 to 1995.

(2) More Recent Investigations

In January 1997, Republican Senator Susan Collins of Maine became the first woman to chair the Permanent Subcommittee on Investigations. Senator John Glenn of Ohio became the Ranking Mi-

³It had not been uncommon in the Subcommittee's history for the Chairman and Ranking Minority Member to work together closely despite partisan differences, but Senator Percy was unusually active while in the Minority—a role that included his chairing an investigation of the hearing aid industry.

nority Member. After Senator Glenn's retirement, Michigan Democrat Carl Levin succeeded him in January 1999, as the Ranking Minority Member. During Senator Collins' chairmanship, the Subcommittee conducted a number of investigations affecting Americans in their day-to-day lives, including investigations into mortgage fraud, deceptive mailings and sweepstakes promotions, phony credentials obtained through the Internet, day trading of securities, and securities fraud on the Internet. Senator Levin, while Ranking Minority Member, initiated an investigation into money laundering. At his request, the Subcommittee held hearings in 1999 on money laundering issues affecting private banking services provided to wealthy individuals, and in 2001, on how major U.S. banks providing correspondent accounts to offshore banks were being used to advance money laundering and other criminal schemes. Senator Collins chaired the Subcommittee until June 2001, when the Senate Majority party changed hands, and Senator Levin assumed the chairmanship. Senator Collins, in turn, became the Ranking Minority Member.

During the 107th Congress, both Senator Collins and Senator Levin chaired the Subcommittee. In her first 6 months chairing the Subcommittee at the start of the 107th Congress, Senator Collins held hearings examining issues related to cross border fraud, the improper operation of tissue banks, and Federal programs designed to fight diabetes. Senator Levin then assumed the chairmanship and, as his first major effort, led an 18-month bipartisan investigation into the Enron Corporation, which had recently collapsed into bankruptcy. As part of that investigation, the Subcommittee reviewed over 2 million pages of documents, conducted more than 100 interviews, held four hearings, and issued three bipartisan reports focusing on the role played by Enron's Board of Directors, Enron's use of tax shelters and structured financial instruments, and how major U.S. financial institutions contributed to Enron's accounting deceptions, corporate abuses, and ultimate collapse. The Subcommittee's investigative work contributed to passage of the Sarbanes-Oxley Act which enacted accounting and corporate reforms in July 2002. In addition, Senator Levin continued the money laundering investigation initiated while he was Ranking Minority Member, and the Subcommittee's work contributed to enactment of landmark reforms strengthening U.S. anti-money laundering laws in the 2001 PATRIOT Act. Also during the 107th Congress, the Subcommittee opened new investigations into offshore tax abuses, border security, and abusive practices related to the pricing of gasoline and other fuels.

In January 2003, at the start of the 108th Congress, after the Senate Majority party again changed hands, Senator Collins was elevated to Chairman of the full Committee on Governmental Affairs, and Republican Senator Norm Coleman of Minnesota became Subcommittee Chairman. Over the next 2 years, Senator Coleman held hearings on topics of national and global concern including illegal file sharing on peer-to-peer networks, abusive practices in the credit counseling industry, the dangers of purchasing pharmaceuticals over the Internet, Federal contractors with billions of dollars in unpaid taxes, SARS preparedness, border security, and how Saddam Hussein abused the United Nations Oil for Food Program.

At the request of Senator Levin, then Ranking Minority Member, the Subcommittee also examined how some U.S. accounting firms, banks, investment firms, and tax lawyers were designing, promoting, and implementing abusive tax shelters across the country; and how some U.S. financial institutions were failing to comply with anti-money laundering controls mandated by the PATRIOT Act, using as a case history Riggs Bank accounts involving Augusto Pinochet, the former President of Chile, and Equatorial Guinea, an oil-rich country in Africa.

During the 109th Congress, Senator Coleman held additional hearings on abuses associated with the United Nation's Oil for Food Program, and initiated a series of hearings on Federal contractors who were paid with taxpayer dollars but failed to pay their own taxes, resulting in billions of dollars in unpaid taxes. He also held hearings on border security issues, securing the global supply chain, Federal travel abuses, and consumers hurt by abusive tax refund loans or unfair energy pricing. At Senator Levin's request, the Subcommittee held hearings on offshore tax abuses responsible for \$100 billion in unpaid taxes each year, and on U.S. vulnerabilities caused by States forming 2 million companies each year with hidden owners.

During the 110th Congress, in January 2007, Senator Levin once again became Subcommittee Chairman. He focused on investigations into complex financial and tax topics, including unfair credit card practices, tax and accounting mismatches involving executive stock options, excessive speculation in the natural gas and crude oil markets, and offshore tax abuses involving tax haven banks and non-U.S. persons dodging payment of U.S. taxes on U.S. stock dividends. The Subcommittee's work contributed to enactment of two landmark bills, the Credit Card Accountability Responsibility and Disclosure Act (Credit CARD Act) which reformed credit card practices, and the Foreign Account Tax Compliance Act (FATCA) which tackled offshore tax issues. At the request of Senator Coleman, then Ranking Minority Member, the Subcommittee also conducted investigations into Medicare and Medicaid health care providers who cheat on their taxes, fraudulent Medicare claims involving deceased doctors or inappropriate diagnosis codes, U.S. dirty bomb vulnerabilities, Federal payroll tax abuses, abusive practices involving transit benefits, and problems involving the United Nations Development Program.

During the 111th Congress, Senator Levin continued as Chairman of the Subcommittee, while Senator Tom Coburn joined the Subcommittee as its Ranking Minority Member. During the 111th Congress, the Subcommittee dedicated much of its resources to a bipartisan investigation into key causes of the 2008 financial crisis, looking in particular at the role of high-risk home loans, regulatory failures, inflated credit ratings, and high-risk, conflicts-ridden financial products designed and sold by investment banks. The Subcommittee held four hearings, released thousands of documents, and produced bipartisan findings of fact and recommendations. In addition, the Subcommittee held hearings on excessive speculation in the wheat market, tax haven banks that helped U.S. clients evade U.S. taxes, keeping foreign corruption out of the United States, and social security disability fraud.

II. SUBCOMMITTEE HEARINGS DURING THE 111TH CONGRESS

A. *Tax Haven Banks and U.S. Tax Compliance—Obtaining the Names of U.S. Clients with Swiss Accounts (March 4, 2009)*

The Subcommittee's first hearing in the 111th Congress focused on the issue of tax haven banks that facilitate U.S. tax evasion. The Subcommittee has estimated that U.S. taxpayers using offshore tax schemes cost an estimated revenue loss of \$100 billion in unpaid taxes each year. Offshore tax abuses also undermine the integrity of the Federal tax system and shift the tax burden from high income taxpayers onto the middle class. In the previous Congress, in 2008, the Subcommittee held 2 days of hearings and released a bipartisan staff report demonstrating how two offshore banks, UBS of Switzerland and LGT Bank of Liechtenstein, had actively facilitated tax dodging by U.S. taxpayers and used offshore secrecy laws to hide the actions of both their clients and their own personnel.

In March 2009, the Subcommittee continued its tax haven bank investigation by holding a hearing on what the U.S. Government was doing to stop UBS from aiding and abetting U.S. tax evasion and to obtain the names of U.S. taxpayers with hidden UBS accounts in Switzerland. At the hearing, the Subcommittee released a number of UBS documents showing the extent of the bank's efforts to help U.S. clients evade U.S. taxes. One 2004 UBS internal report indicated that 32 UBS Swiss bankers had traveled to the United States and made 3,800 client visits in a single year, and that the bank then had a total of 52,000 Swiss account relationships with U.S. residents who had not disclosed their accounts to the Internal Revenue Service (IRS).

The hearing took testimony from two panels of witnesses. On the first panel, John A. DiCicco, Acting Assistant Attorney General for the Tax Division at the Department of Justice (DOJ), and Douglas H. Shulman, IRS Commissioner, described the criminal and civil legal actions taken by the U.S. Government with respect to UBS. They explained that criminal proceedings had led UBS, in February 2009, to enter into a deferred prosecution agreement with DOJ, admit to participation in a scheme to defraud the United States of tax revenue, pay a fine of \$780 million, and turn over the names of 250–300 U.S. clients who had participated in the fraud. Mr. DiCicco and IRS Commissioner Shulman also described ongoing civil proceedings in which the U.S. Government was attempting to enforce a court-approved John Doe summons to obtain from UBS the names and account documentation for all remaining U.S. clients with undisclosed Swiss accounts.

The second panel took testimony from the Chief Financial Officer of UBS Global Wealth Management and Swiss Bank, Mark Branson, who had traveled from Zurich, Switzerland to testify. Mr. Branson acknowledged and expressed regret for the bank's past conduct and repeated the pledge made by UBS at an earlier Subcommittee hearing that it would close the offending accounts and no longer open Swiss accounts for U.S. clients without notifying the IRS. This pledge represented the first time a major bank in a tax haven jurisdiction promised to no longer open accounts for U.S. clients without alerting the IRS. While UBS also promised to cooper-

ate with the U.S. investigation into its actions, Mr. Branson testified that, due to Swiss bank secrecy laws, it might not be able to disclose any additional U.S. client names to the United States. He explained that the Swiss government had intervened in the John Doe proceedings to prevent any additional disclosure of client information and had asserted that, instead of the John Doe summons, the United States ought to be using the procedures set up under the U.S.-Swiss tax treaty to obtain the information it wanted.

The witnesses agreed, however, that the U.S.-Swiss tax treaty, like other tax treaties and tax information exchange agreements around the world, was not designed to handle inquiries into taxpayers whose names were unknown. As the IRS explained in a court pleading, the Swiss have consistently applied the tax treaty “to provide the [IRS] assistance only in response to specific requests that name a particular taxpayer.” In the UBS case, for example, after the United States made a request under the treaty for the names of the 52,000 UBS Swiss account relationships with U.S. clients, the Swiss government determined that only 12 accountholders met the treaty standards and could be disclosed to the United States. In addition, the Swiss allowed those 12 to appeal its determination, leading to lengthy proceedings in Swiss courts. The IRS stated in a court pleading 7 months after making its request: “The Swiss Government has not provided any records sought under the Treaty Request, and it is not clear when, if ever, it will.” The Swiss government was invited to appear at the Subcommittee hearing to discuss the UBS matter and the pending U.S. treaty request, but it declined to send a representative.

Later in 2009, after the hearing, Switzerland and the United States reached agreement on a new tax treaty with slightly broader terms and, in August 2009, the Swiss agreed to turn over the names of an additional, estimated 4,400 UBS clients. In return, the United States agreed to forgo obtaining the names of the remaining tens of thousands of U.S. clients with undisclosed UBS accounts in Switzerland. Over the following 2 years, the 4,400 names were slowly provided by the Swiss to the United States.

The Subcommittee’s work on abusive practices by tax haven banks contributed to enactment by Congress, in 2010, of the Foreign Account Tax Compliance Act (FATCA) which, among other provisions, requires foreign banks to disclose all accounts opened by U.S. persons or pay a 30 percent tax on income generated by U.S. investments held by those banks. In addition, the Subcommittee’s work contributed to a world or wide effort to pressure tax havens to stop using secrecy laws to facilitate tax evasion. In response to this worldwide campaign, by 2010, virtually all offshore jurisdictions around the world, including Switzerland, stated publicly they would no longer use secrecy laws to facilitate tax evasion and committed to adopting international standards on tax information exchange. Implementation of those pledges continues.

B. Excessive Speculation in the Wheat Market (July 21, 2009)

Since 2001, the Subcommittee has investigated the pricing of energy commodities, such as crude oil, natural gas, and gasoline; allegations of price manipulation and excessive speculation; and actions taken by the Commodity Futures Trading Commission

(CFTC) and the commodity exchanges to police commodity markets. In 2009, the Subcommittee extended its investigation of commodity markets by releasing a 270-page bipartisan staff report and holding a hearing on pricing and speculation issues involving wheat.

As part of its investigation, the Subcommittee compiled and examined millions of trading records from the Chicago Mercantile Exchange, Kansas City Exchange, Minneapolis Grain Exchange, the CFTC, and others to track and analyze trends in wheat prices. The data showed that commodity index traders—traders who are not producers or consumers of wheat, but buy wheat futures to help offset their financial exposure from selling commodity index instruments to third parties—had injected billions of dollars, in the aggregate, into the wheat futures market over 6 years. The data also showed that commodity index traders had increased their holdings from a total of about 30,000 wheat contracts in 2004, up to 220,000 contracts in 2008, enlarging their market share so that, in each year since 2006, commodity index traders held between 35 percent and 50 percent of all outstanding wheat futures contracts on the Chicago Mercantile Exchange. The investigation concluded that, as a result, commodity index traders had, in the aggregate, pushed up futures prices, disrupted the normal relationship between futures prices and cash prices for wheat, and caused farmers, grain elevators, grain processors, consumers, and others to experience significant unwarranted costs and price risks. The excessive speculation engaged in by index traders had also made it more difficult to use the futures market to protect against price changes.

The report released by the Subcommittee on June 24, 2009, included bipartisan findings of fact and recommendations. One of the key findings was that significant and persuasive evidence indicated that one of the major reasons for the recent wheat market problems was the unusually high level of speculation in the Chicago wheat futures market due to purchases of futures contracts by index traders offsetting sales of commodity index instruments. To diminish and prevent this type of excessive speculation in the Chicago wheat futures market, the investigation recommended that the CFTC phase out exemptions and waivers that had allowed some index traders to operate outside of the trading limits designed to prevent excessive speculation. That action would then enable the CFTC to impose on index traders the same position limits for wheat contracts that apply to other speculators, and rein in the excessive speculation disrupting wheat prices. In addition, the investigation recommended that the CFTC analyze the impact of commodity index trading on other commodities, including crude oil, to determine if excessive speculation was distorting prices.

The hearing took testimony from three panels of witnesses who reacted to the Subcommittee's investigation and report, and described their own wheat market experiences and analysis of wheat prices. The first witness was CFTC Chairman Gary Gensler who described the CFTC's concern with preventing excessive speculation from distorting commodity prices and commercial hedging efforts. The second panel heard from four witnesses with expertise on commodity issues, including a wheat producer, wheat user, wheat trader, and consumer protection group. The panelists were

Thomas Coyle, Vice President and General Manager of Chicago and Illinois River Marketing LLC, Nidera, Inc., and Chairman of the National Grain and Feed Association; Hayden Wands, Director of Procurement for the Sara Lee Corporation and Chairman of the Commodity and Agricultural Policy of the American Bakers Association; Steven H. Strongin, head of the Global Investment Research Division for Goldman Sachs Group, Inc.; and Mark Cooper, Director of Research for the Consumer Federation of America. The third and final panel heard from Charles P. Carey, Vice Chairman of the CME Group, which manages the Chicago Mercantile Exchange, the largest wheat futures market in the world.

The witnesses generally agreed that commodity index traders had an increased presence in the wheat market, the wheat market was experiencing increased price volatility and hedging failures, and recent trends showed an ongoing disconnect between wheat futures and cash prices, but they often disagreed on the causes of those problems. The wheat producer, user and consumer witnesses saw commodity index traders as responsible for excessive speculation and price distortions, while the wheat trader and exchange operator did not. The CFTC chairman promised additional study.

In response to the Subcommittee's work, the CFTC intensified its review of wheat price convergence problems and revoked some position limit waivers and exemptions that had been granted to wheat index traders. The CME Group tried other remedies as well, but index traders continued to dominate the wheat markets and wheat pricing problems continued to plague its market. In 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act which, among other provisions, mandated stronger regulation of all commodity markets and related commodity derivatives, provided stronger tools to restrain excessive speculation, and mandated the imposition of position limits on commodity traders.

C. Keeping Foreign Corruption out of the United States: Four Case Histories (February 4, 2010)

Since 2003, the Subcommittee has conducted a series of investigations into U.S. practices that may contribute, wittingly or unwittingly, to corruption in foreign countries. In February 2010, the Subcommittee held a hearing and released a 330-page bipartisan staff report showing how politically powerful foreign officials, their relatives, and close associates—referred to as Politically Exposed Persons (PEPs) in international agreements—have funneled millions of dollars in illicit money into the United States using the services of U.S. lawyers, real estate and escrow agents, lobbyists, and other professionals. During the course of this investigation, the Subcommittee reviewed millions of pages of documents, conducted more than 100 interviews, and traced millions of dollars in suspect funds.

The investigation developed four case histories, involving PEPs from Equatorial Guinea, Gabon, Nigeria, and Angola, to expose some of the tactics being used to bring suspect funds into the United States. The case histories showed, for example, how PEPs used U.S. shell corporation, law office, trust, and family bank accounts to bring suspect funds into the United States; used U.S. real estate and escrow agents to purchase lavish residences and aircraft

with suspect funds; and used a U.S. lobbyist to distribute suspect funds across the country and around the globe. Another case history showed how U.S. banks allowed PEPs to wire transfer suspect funds into the United States, including funds from around the globe from a known arms dealer and felon; millions of dollars that the head of a central bank attempted to transfer from the central bank to a private account in the United States; and funds from a private bank that catered to PEPs in a country known for corruption.

The investigation also showed that many of the U.S. professionals assisting PEPs, including lawyers, real estate and escrow agents, and lobbyists, were exempt from anti-money laundering (AML) laws which would require them to know their customers, evaluate the source of funds transferred into the United States, and report suspicious activity to law enforcement. The investigation offered a number of recommendations to help keep foreign corruption out of the United States, including by revoking the AML exemptions granted to real estate and escrow agents, identifying the owners of U.S. shell corporations, and tightening controls on shell company and law office accounts.

The hearing took testimony from three panels of witnesses. The first panel called two lawyers and a lobbyist who assisted PEPs in Equatorial Guinea and Gabon to bring suspect funds into the United States. At the hearing, all three panelists asserted their Fifth Amendment rights under the Constitution and declined to testify.

The two lawyers, Michael Jay Berger and George I. Nagler, had each worked for Teodoro Obiang, the 40-year-old son of the President of Equatorial Guinea who was under investigation by the Justice Department for corruption and other misconduct. He was also an Equatorial Guinea Cabinet Minister and a PEP in his own right. Although they did not work together, the two attorneys formed five California shell corporations for Mr. Obiang's use, with names like Beautiful Vision, Unlimited Horizon, and Sweetwater. The lawyers then opened accounts for those shell corporations at multiple banks, and allowed Mr. Obiang to transfer funds into and out of them to advance his interests. In addition, each attorney allowed Mr. Obiang to wire millions of dollars into the attorney's law office or attorney-client bank accounts and forwarded the funds to other accounts controlled by Mr. Obiang, thereby disguising the origin of the funds as from Equatorial Guinea, a country many banks viewed as high risk.

The remaining panelist, Jeffrey C. Birrell, served as a registered lobbyist for the Republic of Gabon. From 2003 until at least 2007, he worked closely with Omar Bongo, the now deceased President of Gabon, to buy U.S.-made armored vehicles and obtain U.S. Government permission to buy six C-130 military cargo aircraft from Saudi Arabia to support the Bongo regime. In connection with those projects, more than \$18 million was wire transferred from Gabon into Mr. Birrell's U.S. corporate bank accounts. Part of that money came from President Bongo's personal account; most came from an entity in Gabon called "Ayira." At President Bongo's direction, Mr. Birrell spent millions of dollars of the Gabon money on the armored car and aircraft projects, including wiring more than

\$1 million to various “consultants” around the world and at least another \$4 million to a Bongo advisor with accounts in Brussels and Paris. When the aircraft deal fell through, Mr. Birrell wired over \$9 million of the Ayira money to an account in President Bongo’s name—not in Gabon—but in the country of Malta. Mr. Birrell’s corporate bank accounts became conduits for multi-million-dollar suspicious wire transfers directed by President Omar Bongo through the U.S. financial system.

The second panel of witnesses heard from a U.S. real estate agent, escrow agent, and two banks that facilitated suspect PEP transactions in the United States. The real estate agent, Neal Baddin, helped Teodoro Obiang purchase a \$30 million mansion in Malibu, in part by accepting multiple wire transfers from Equatorial Guinea into an escrow account at a U.S. bank. Mr. Baddin testified that he had no legal obligation to inquire into the source of those funds or evaluate whether they might be the proceeds of crime. Mr. Obiang also bought a \$38.5 million U.S.-built Gulfstream jet. After one U.S. escrow agent, as an AML precaution, refused to proceed with the aircraft purchase without more information about the source of the funds, another escrow agent, Insured Aircraft Title Services Inc. (IATS), stepped in and completed the transaction with no questions asked. The second panelist, Brenda K. Cobb, an IATS Vice President, explained that U.S. regulations currently exempted escrow agents from any AML obligations and so did not require the company to screen client funds. Both Mr. Baddin and Ms. Cobb testified that, if the law had required their firms to take AML precautions, their firms would have complied with the law.

The second panel also heard from two banks that facilitated PEP transactions in the United States. William J. Fox was Senior Vice-President and Global Anti-Money, Laundering and Economic Sanctions Executive of Bank of America; Wiecher H. Mandemaker was the Director of General Compliance, Personal Financial Services, Anti-Money Laundering Compliance, for HSBC Bank USA. Mr. Fox expressed regret that for a period of 18 years, from 1989 to 2007, a Bank of America branch in Scottsdale, Arizona provided more than 30 accounts to Pierre Falcone, a notorious arms dealer who supplied weapons during Angola’s civil war in violation of a U.N. arms embargo. Mr. Falcone had a long history of run-ins with the law, was incarcerated for a year in 2000, was a fugitive from a 2004 global arrest warrant, and at the time of the hearing was serving a 6-year prison term in France. Bank of America documents indicated that the bank knew who he was, yet never designated him a PEP despite his being an Angolan Ambassador, never designated his accounts as high-risk despite deposits of substantial sums of offshore money, and never closed his accounts until contacted by the Subcommittee. Mr. Mandemaker acknowledged that, for over a decade, HSBC provided U.S. banking services to Banco Africano de Investimentos (BAI), a \$7 billion Angolan private bank whose largest shareholder was Angola’s State-owned oil company and which catered to PEP clients. Despite PEPs in BAI’s management and clientele, and HSBC’s inability despite multiple requests to get clear information about BAI’s owners or a copy

of its AML procedures, HSBC continued to provide the BAI bank with ready access to the U.S. financial system.

The third and final panel heard from three Federal Government representatives: David T. Johnson, Assistant Secretary for International Narcotics and Law Enforcement Affairs at the U.S. Department of State; Janice Ayala, Assistant Director, Office of Investigations, Immigration and Customs Enforcement (ICE) at the U.S. Department of Homeland Security; and James H. Freis, Jr., Director of the Financial Crimes Enforcement Network (FinCEN) at the U.S. Department of Treasury. All three expressed concern about U.S. professionals facilitating foreign corruption through the United States and reacted to proposals to strengthen U.S. barriers to foreign corruption, including implementing stronger PEP controls at banks to identify and monitor PEP clients; requiring persons setting up U.S. shell companies to identify their beneficial owners; revoking AML exemptions for real estate and escrow agents; preventing misuse of law office and attorney-client bank accounts; and strengthening U.S. visa and immigration policies to make foreign corruption a legal basis for excluding or removing a foreign PEP from the United States.

D. Wall Street and the Financial Crisis: The Role of High-Risk Home Loans (April 13, 2010)

In November 2008, the Subcommittee initiated a bipartisan investigation into key causes of the 2008 financial crisis which cost millions of jobs, caused the loss of millions of homes, destroyed savings, shuttered good businesses, and put the United States into the worst economic tailspin since the Great Depression. The investigation's goals were threefold: To construct a public record of the facts to deepen public understanding of what happened; identify some of the root causes of the crisis; and provide a factual foundation for the ongoing effort to fortify the country against the recurrence of a similar crisis in the future. As part of its investigation, the Subcommittee conducted over 150 interviews and depositions, consulted with dozens of experts, and subpoenaed and reviewed millions of pages of documents.

In April 2010, the Subcommittee held four hearings examining how high-risk mortgage lending, regulatory failures, inflated credit ratings that misled investors, and high-risk, conflicts-ridden financial products designed and sold by investment banks contributed to the financial crisis, using case histories in each hearing to illustrate the problems.

The first hearing, on April 13, 2010, focused on the role of high-risk home loans and the mortgage backed securities that those loans produced, using as a case history the lending and securitization practices of Washington Mutual Bank. Washington Mutual Bank, the largest U.S. thrift with more than \$300 billion in assets, issued billions of dollars in high-risk mortgage loans, packaged them into securities that later experienced a high rate of delinquency or loss, and then collapsed in the largest bank failure in U.S. history. Washington Mutual securitized over \$77 billion in subprime home loans as well as billions of dollars of other high-risk home loans, including interest-only, home equity, and "Option Adjustable Rate Mortgages (ARM)" loans. Many of those loans used

initial low “teaser” interest rates that, unless the loan was refinanced, were later replaced with much steeper rates and higher monthly payments. The Option ARM loans also allowed borrowers, for a specified period, to pay less than the interest they owed each month, resulting in a larger rather than reduced mortgage debt, a feature called negative amortization. When home prices stopped increasing, many borrowers were unable to refinance their loans, defaulted on their mortgages, and lost their homes while the related mortgage securities plummeted in value.

At the hearing, the Subcommittee released thousands of pages of hearing exhibits documenting Washington Mutual’s role in the 2008 financial crisis. The hearing exhibits demonstrated, for example, that the reason that Washington Mutual executives embarked upon a high-risk lending strategy was because they had projected that high-risk home loans, which generally charged higher interest rates and produced higher sales prices on Wall Street, would be more profitable for the bank than lower risk home loans. The documents also showed that Washington Mutual and its affiliate, Long Beach Mortgage Company, used shoddy lending practices riddled with credit, compliance, and operational deficiencies. Those practices included issuing loans with erroneous or fraudulent borrower information, “stated income loans” in which borrowers stated their income with no supporting documentation, loans with inaccurate appraisals, and loans in which the borrowed amount equaled 90 percent or more of the value of the home. The hearing exhibits also showed that Washington Mutual and Long Beach steered many borrowers into loans they could not afford when the higher monthly payments built into those loans took effect. Those high-risk loans were nevertheless packaged into mortgage-backed securities sold to investors worldwide, saturating financial markets with mortgage-backed securities that later incurred high rates of delinquency and loss.

The hearing exhibits also showed that, at times, Washington Mutual securitized loans that it had identified as likely to go delinquent, without disclosing its analysis to investors who bought the securities, and securitized loans tainted by fraudulent information, without notifying purchasers of the fraud that had been discovered. In addition, the documents showed that Washington Mutual’s compensation system rewarded loan officers and loan processors for speed and volume in issuing loans, rather than for issuing high quality loans. The compensation system also paid extra to loan officers who overcharged borrowers or added stiff prepayment penalties, and awarded bank executives millions of dollars even when their high-risk lending strategy placed the bank in financial jeopardy.

The hearing took testimony from two panels of former bank personnel. The first panel consisted of two former Washington Mutual risk management officers and the chief auditor who were employed by the bank during the run up to its collapse in 2008. The witnesses were James Vanasek, former Chief Risk Officer from 2004 to 2005; Ronald Cathcart, former Chief Risk Officer from 2006 to 2008; and Randy Melby, former General Auditor from 2004 to 2008. All three witnesses acknowledged the bank’s high-risk lending practices, poorly performing loans and mortgage-backed securi-

ties, and weak oversight of loan personnel and the third party mortgage brokers that provided loans to the bank. All three described how they alerted bank management to the risks and other problems, but were ignored or marginalized by the bank's senior officers.

The second panel of witnesses heard from four senior Washington Mutual officers, the bank's Chief Executive Officer (CEO), President, Home Loans Division head, and head of the Capital Markets Division. The witnesses were Kerry Killinger, former President, CEO, and Chairman of the Board of Washington Mutual; Stephen Rotella, former President and Chief Operating Officer of the bank; David Schneider, former President of the Home Loans Division; and David Beck, Former Division Head of Capital Markets. These four bank officers also acknowledged the bank's dismal performance, but claimed they worked hard to reduce the bank's risk and address other problems. They portrayed the bank as a victim of, rather than a contributor to, the financial crisis and denied their practices contributed to the bank's downfall.

In April 2011, the Subcommittee issued a 750-page bipartisan staff report summarizing its investigation into high-risk lending practices discussed at the hearing and offering recommendations to prevent similar problems in the future. The Subcommittee's work contributed to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 ("Dodd-Frank Act"). Among other provisions, the Dodd-Frank Act prohibited stated income loans; imposed restrictions on loans using low teaser rates or negative amortization; and required banks to retain a portion of the credit risk of each mortgage-backed security they issued.

E. Wall Street and the Financial Crisis: The Role of Bank Regulators (April 16, 2010)

The second in the series of Subcommittee hearings on key causes of the 2008 financial crisis, on April 16, 2010, focused on the role of Federal bank regulators charged with ensuring the safety and soundness of the U.S. banking system. The Subcommittee used as a case study regulatory oversight of Washington Mutual, focusing on the Office of Thrift Supervision (OTS), which was the bank's primary regulator, and the Federal Deposit Insurance Corporation (FDIC), which was its backup regulator.

At the hearing, the Subcommittee released thousands of pages of hearing exhibits documenting actions taken by OTS and the FDIC, from 2004 to 2008, to ensure the safety and soundness of Washington Mutual, the sixth largest bank in the United States and OTS's largest institution. Together, the documents demonstrated that feeble oversight by the regulators, combined with weak regulatory standards and agency infighting, allowed Washington Mutual Bank to engage in high-risk and shoddy lending practices and the sale of poor quality and sometimes fraudulent mortgages that contributed to both the bank's demise and the 2008 financial crisis.

The hearing exhibits showed that over a 5-year period, from 2003 to 2008, OTS identified over 500 serious deficiencies in Washington Mutual's lending practices, risk management, and asset quality, but failed to force adequate corrective action to prevent the bank's failure. The documents demonstrated that OTS was aware of, yet

tolerated, Washington Mutual and its affiliate Long Beach Mortgage Company's engaging in year-after-year of shoddy lending and securitization practices, including the origination and sale of loans and mortgage-backed securities with notoriously high rates of delinquency and loss.

The hearing exhibits also demonstrated that OTS allowed Washington Mutual to originate hundreds of billions of dollars in high-risk loans, knowing that the bank used unsafe and unsound teaser rates, qualified borrowers using those teaser rates rather than the higher interest rates that would later take effect, permitted borrowers to make minimum payments resulting in negatively amortizing loans, relied on rising house prices and refinancing to avoid payment shock and loan defaults, had unsafe concentrations of loans in particular States, and had no realistic data to calculate loan losses in markets with flat or declining house prices. The documents show that, due in part to the short-term profits obtained by the bank from its lending activities, OTS repeatedly failed to take enforcement action to stop Washington Mutual's unsafe and unsound practices or strengthen its portfolio of high-risk, poor-quality loans and securities.

In addition, the hearing exhibits disclosed agency infighting in which OTS actively impeded FDIC oversight of Washington Mutual by blocking the FDIC's access to bank data, refusing to allow it to participate in bank examinations, and rejecting requests to review bank loan files. OTS also rejected FDIC recommendations for stronger enforcement action.

The documents also demonstrated that Federal bank regulators were hobbled in their efforts to end unsafe and unsound mortgage practices at U.S. banks by weak regulatory standards, use of guidance instead of enforceable regulations to limit bank practices, and the failure to set clear deadlines for bank compliance. The case history exposed an ineffective regulatory culture at OTS in which bank examiners were demoralized by their inability to stop unsafe practices, their supervisors' reluctance to take formal enforcement actions even after years of recorded bank deficiencies, and an agency culture that treated banks as "constituents" rather than regulated entities. In addition, the case history showed how OTS and the FDIC allowed Washington Mutual to reduce its risks by selling its high-risk assets, without concern that those assets might saturate the financial system, contribute to investor losses, and undermine investor confidence in the U.S. mortgage market.

The hearing heard from three panels of witnesses. The first panel consisted of two Federal Inspectors General who had prepared a joint report on the regulatory failures associated with Washington Mutual. The witnesses were Eric Thorson, Inspector General for the U.S. Treasury Department, and Jon T. Rymer, Inspector General for the FDIC. Both testified that the OTS had identified numerous serious deficiencies at the bank, but failed to take needed enforcement actions to change the bank's conduct. Both agreed that OTS allowed short-term profits to excuse high-risk practices and poor quality assets. Both also agreed that OTS and the FDIC failed to provide accurate ratings of the bank's management and financial condition; and OTS engaged in unacceptable tactics to impede FDIC oversight.

The second panel took testimony from five regulators who helped oversee Washington Mutual prior to its collapse, three from OTS and two from the FDIC. The witnesses were John Reich, former Director of OTS; Darrel Dochow, former OTS West Regional Director; Lawrence Carter, former OTS Examiner-in-Charge at Washington Mutual from 2004 to 2006; John Corston, Acting FDIC Deputy Director of the Large Institutions and Analysis Branch; and J. George Doerr, FDIC Deputy Regional Director for the Division of Supervision and Consumer Protection in San Francisco. The witnesses generally agreed that the bank's activities were high risk, but asserted they did not violate regulatory standards. The FDIC witnesses criticized the extent to which OTS allowed Washington Mutual's loan practices to layer risks and gave the bank more time to comply with bank guidance limiting high-risk activities.

The third panel took testimony from the heads of OTS and the FDIC, Sheila C. Bair, FDIC Chairman, and John E. Bowman, OTS Acting Director. Both acknowledged the regulatory failures underlying the collapse of Washington Mutual, testifying among other matters that regulators had been too tolerant of risk, and the regulatory standards should have banned stated income loans and limited other risky products and practices.

In April 2011, the Subcommittee issued a 750-page bipartisan staff report summarizing its investigation into the regulatory failures discussed at the hearing and offering a number of recommendations to prevent similar problems in the future. The Subcommittee's work contributed to the enactment of the Dodd-Frank Act which, among other provisions, abolished OTS and moved its regulatory responsibilities to another bank regulator; prohibited a number of high-risk lending practices; strengthened the FDIC's oversight role; and created a Financial Oversight Stability Council to detect and prevent systemic risks to the U.S. financial system.

F. Wall Street and the Financial Crisis: The Role of Credit Rating Agencies (April 23, 2010)

The third in the series of Subcommittee hearings examining key causes of the financial crisis, on April 23, 2010, focused on the role of the credit rating agencies that rated residential mortgage backed securities (RMBS) and collateral debt obligations (CDOs) from 2004 to 2008. The Subcommittee's investigation used as a case history the two largest U.S. credit rating agencies, Moody's and Standard & Poor's ("S&P"), which together rated tens of thousands of RMBS and CDO securities in the years prior to the financial crisis. Those ratings proved to be both inaccurate and inflated, as evidenced by studies showing that over 90 percent of the RMBS securities given AAA ratings in 2006 and 2007, were later downgraded to junk status, subjecting investors to unusually high rates of delinquency and loss.

At the hearing, the Subcommittee released thousands of pages of hearing exhibits documenting actions taken by Moody's and S&P during the period 2004 to 2007. Those documents showed how some investment bankers pressured the credit rating agencies to provide favorable ratings for the RMBS and CDO products they designed and planned to sell, and how Moody's and S&P—which were paid by those firms—repeatedly gave into that pressure. The hearing ex-

hibits also disclosed how competitive pressures, including the drive for market share and the need to accommodate investment bankers bringing in business, caused Moody's and S&P to weaken their standards for issuing favorable ratings. The documents also showed that Moody's and S&P made record profits rating structured finance products during this period, primarily from rating complex RMBS and CDO products.

The documents showed that Moody's and S&P issued AAA and other investment grade credit ratings for the vast majority of RMBS and CDO securities they rated, deeming them safe investments even though many relied on high-risk home loans. In late 2006, high-risk mortgages began incurring delinquencies and defaults at an alarming rate. Despite signs of a deteriorating mortgage market, Moody's and S&P continued for 6 months to issue investment grade ratings for numerous RMBS and CDO securities.

The hearing exhibits showed that Moody's and S&P were aware of the increasing risks associated with the subprime, interest-only, and adjustable rate mortgages being issued by lenders, including their increasing use of stated income loans that did not document a borrower's ability to repay debt, loans containing fraudulent borrower or appraisal information, and loans with initial teaser rates that relied on the borrower refinancing the debt before higher interest rates took effect. The documents also showed that Moody's and S&P were aware of housing prices leveling out, delinquency rates climbing, and related MBS and CDO securities incurring increased losses, despite their AAA ratings. One S&P analyst told a superior in early 2007, that he did not expect the ratings to "hold" through the year.

The documents also showed that in July 2007, within days of each other, Moody's and S&P suddenly announced mass downgrades of hundreds of RMBS and CDO securities. Those mass downgrades shocked the financial markets, triggered sales of assets that had lost their investment grade status, and contributed to the collapse of first the RMBS and then the CDO secondary markets. Financial firms and investors were left holding billions of dollars of suddenly unmarketable securities whose value began plummeting. The Subcommittee's investigation concluded that the 2007 mass downgrades, which were unique in U.S. financial history and which made it clear that RMBS and CDO securities were no longer safe investments, were the most immediate trigger of the financial crisis.

The hearing exhibits also showed that, from 2004 to 2007, Moody's and S&P used credit rating models with data that was inadequate to predict how high-risk home loans would perform. In addition, they showed that Moody's and S&P failed to factor into their models increased credit risks due to mortgage fraud, lax underwriting standards, and unsustainable housing price appreciation. By 2006, Moody's and S&P knew their RMBS and CDO ratings were inaccurate, revised their rating models to produce more accurate ratings, but then failed to use the revised models to re-evaluate their existing RMBS and CDO ratings, delaying thousands of rating downgrades and allowing those securities to carry inflated ratings that could mislead investors. In addition, despite record profits, Moody's and S&P failed to assign sufficient re-

sources to adequately rate new products and test the accuracy of their existing ratings.

At the hearing, three panels of witnesses reacted to the Subcommittee's investigation and hearing exhibits. The first panel took testimony from four former Moody's and S&P employees involved with rating RMBS and CDO securities. The witnesses were Frank Raiter, former Managing Director of Mortgage-Backed Securities at S&P; Richard Michalek, former Vice President and Senior Credit Officer in the Structured Derivative Products Group at Moody's; Eric Kolchinsky, former Team Managing Director in the Structured Derivative Products Group at Moody's; and Arturo Cifuentes, Ph.D., former Senior Vice-President at Moody's and currently Director of the Finance Center at the University of Chile. These former Moody's and S&P employees described multiple instances of competitive pressures, inadequate resources, and conflicts of interest that weakened the credit rating process and criticized their employers for issuing inaccurate ratings.

The second panel took testimony from three senior credit rating officials who oversaw RMBS and CDO ratings in the run up to the 2008 financial crisis. The witnesses were Susan Barnes, Managing Director of Mortgage-Backed Securities at S&P; Peter D'Erchia, Managing Director of U.S. Public Finance and former Global Practice Leader for Surveillance at S&P; and Yuri Yoshizawa, Group Managing Director for Structured Finance at Moody's Investors Service. These senior officers essentially defended their firms and denied that competitive pressures or conflicts of interest affected the ratings process.

The third and final panel took testimony from the heads of Moody's and S&P during the years proceeding the financial crisis. The witnesses were Raymond W. McDaniel, Jr., Chairman and Chief Executive Officer of Moody's Corporation; and Kathleen A. Corbet, President of S&P from 2004 to 2007. Both witnesses expressed dissatisfaction with their companies' ratings performance and acknowledged taking steps to strengthen their ratings process. Both also essentially denied any breakdown in their ratings process, and portrayed their firms as victims of an unexpected widespread decline in housing price appreciation which rendered their credit ratings inaccurate.

In April 2011, the Subcommittee issued a 750-page bipartisan staff report summarizing its investigation into the inaccurate and inflated credit ratings and mass rating downgrades discussed at the hearing. The report also provided bipartisan recommendations to prevent similar problems in the future. The Subcommittee's work contributed to the enactment of the Dodd-Frank Act which, among other provisions, strengthened SEC oversight of the credit rating agencies, instituted new controls to improve the credit rating process, banned Federal regulations requiring reliance on credit ratings, and initiated a study to determine how to address the conflicts of interest inherent when credit rating agencies are paid by the firms whose financial products are being rated.

G. Wall Street and the Financial Crisis: The Role of Investment Banks (April 27, 2010)

The fourth and final hearing in the Subcommittee series of hearings on key causes of the 2008 financial crisis took place on April 27, 2010. It focused on the role of investment banks, using as a case history Goldman Sachs, a Wall Street investment bank that was a leader in developing RMBS and CDO products and the secondary mortgage market, and then profited from the collapse of that same market during the crisis. In addition, the hearing examined actions taken by Goldman indicating that it had engaged in troubling and sometimes abusive practices raising multiple conflict of interest concerns.

At the hearing, the Subcommittee released thousands of pages of hearing exhibits documenting actions taken by Goldman during the run up to the financial crisis. These documents showed that, from 2004 to 2007, in exchange for lucrative fees, Goldman helped lenders notorious for issuing high-risk, poor quality loans securitize them, obtain favorable credit ratings for them, and sell the resulting RMBS securities to investors, injecting billions of dollars of risky loans into the financial system. The hearing exhibits also showed how Goldman Sachs magnified the risks associated with subprime mortgages by re-securitizing related RMBS securities in CDOs, referencing them in synthetic CDOs, and selling the CDO securities to investors worldwide. In addition, Goldman promoted standardized credit default swaps and other products to enable investors to bet on the failure as well as the success of RMBS and CDO securities.

The hearing exhibits also showed how, as high-risk home loans began to default, loan delinquency rates increased, and RMBS and CDO securities began to incur losses in late 2006, Goldman suddenly reversed course and began to bet against the mortgage market. The documents detailed how Goldman sold its mortgage investments, used a variety of tactics to build a very large net short position, and either locked in or cashed out its profits during 2007, generating billions of dollars in gain. One internal Goldman email characterized this 2007 effort as the “big short.” As a result, during the financial crisis, while other investment banks incurred large losses, Goldman showcased its mortgage profits, citing its net short position.

The hearing exhibits also provided detailed information about Goldman’s efforts during late 2006 and the first half of 2007, to originate and sell four mortgage-related CDOs known as Hudson, Anderson, Timberwolf, and Abacus. Goldman designed those CDOs, underwrote them, and recommended the CDO securities to clients. In three of the CDOs, Goldman also secretly bet against the securities, either in whole or in part. In the fourth, Goldman allowed a favored client to help select the assets and then bet against the CDO. Goldman did not inform the investors to whom it marketed and sold the CDO securities that it had a negative view of the mortgage market at the same time, that it was shorting the mortgage market, or that Goldman or a favored client had bet against the same CDO securities that Goldman was selling to them.

The hearing took testimony from three panels of witnesses, all of whom were former or current Goldman employees. The first panel

consisted of four former or current Goldman employees involved with trading mortgage products. The witnesses were Daniel L. Sparks, former head of Goldman's Mortgage Department; Michael J. Swenson, Managing Director with the Structured Products Group Trading Desk; Joshua S. Birnbaum, former Managing Director of Structured Products Group Trading Desk; and Fabrice P. Tourre, Executive Director of the Structured Products Group Trading Desk in London, England. The second panel consisted of two senior Goldman officers, David A. Viniar, Goldman's Chief Financial Officer; and Craig W. Broderick, Goldman's Chief Risk Officer. The third panel took testimony from Lloyd C. Blankfein, Goldman's Chairman and Chief Executive Officer.

The witnesses responded to questions about Goldman's actions during the financial crisis and information in the hearing exhibits. Goldman's senior officers essentially denied that Goldman had accumulated a large short position in the mortgage market or bet against the mortgage assets that it had marketed and sold to its clients. They also denied that Goldman had engaged in troubling conduct when it failed to tell clients that it held the short side of the CDO securities that Goldman was recommending they buy. When confronted with emails showing that Goldman personnel had sharply negative views of the CDOs the firm was selling to its clients, the witnesses contended that Goldman was acting as a market-maker rather than an underwriter of those securities, it had no legal obligation to disclose material adverse information to its clients, and its clients were sophisticated investors who would have been uninterested in Goldman's views. The witnesses also took the position that the firm had no fiduciary duty to the clients to whom Goldman recommended and sold the CDO securities. When asked whether the firm had been engaged in proprietary trading when shorting the mortgage market and selling the CDO securities, the witnesses avoided answering the question and testified that Goldman had put its clients' interests first.

In April 2011, the Subcommittee issued a 750-page bipartisan staff report summarizing its investigation into the Goldman case history discussed at the hearing. The report also offered bipartisan recommendations to address some of the issues raised. The Subcommittee's work contributed to the enactment of the Dodd-Frank Act which, among other provisions, bars banks and certain other financial firms from engaging in high-risk proprietary trading, prohibits them from engaging in proprietary trades involving conflicts of interest, and prohibits sponsors of asset-backed securities from engaging in conflicts of interest such as betting against the securities they sponsor.

H. Social Security Disability Fraud: Case Studies in Federal Employees and Commercial Drivers Licenses (August 4, 2010)

In 2010, the Subcommittee began examining waste, fraud, and abuse issues associated with Federal disability programs. In August 2010, the Subcommittee held a hearing and released a GAO report examining questionable disability payments made by the Social Security Disability Insurance (DI) program, which provides benefits to disabled individuals who can no longer work, and by the Supplemental Security Income (SSI) program, which in part sup-

ports disabled persons and their families based upon financial need. In 2009, these two programs provided disabled Americans with financial benefits totaling nearly \$160 billion. While the DI overpayment rate was about 1 percent in FY2008, the SSI overpayment rate reached 10 percent that year, followed by 8 percent in FY2009.

The hearing focused on a Federal program that allows disabled individuals to undertake a 9-month trial work period, without losing their benefits, to see if they can return to work. Disability recipients are required to notify the Social Security Administration when they begin employment and if they earn in excess of program limits. GAO used data matching and specific case studies to examine the extent to which disability recipients may be abusing that work program. A data match examining 4.5 million Federal employees identified about 24,500 who received disability payments while also earning Federal paychecks; 1,500 of whom were paid more than the program limit of about \$1,000 per month and together received disability benefits totaling \$1.7 million per month. Another data match examining 600,000 persons with a commercial drivers license as well as another database together found 62,000 individuals who received a commercial drivers license after their disability start date, raising questions about whether they were improperly receiving disability payments worth millions of dollars.

The hearing took testimony from two witnesses. Gregory D. Kutz, Managing Director of Forensic Audits and Special Investigations at the Government Accountability Office (GAO), described the GAO investigation, its findings, and recommendations. Michael J. Astrue, Commissioner of the Social Security Administration (SSA), described the disability programs, their complex requirements, and SSA's efforts to detect, prevent, and punish fraud. After the hearing, GAO and SSA discussed continued use of the data matches to detect and prevent Social Security disability fraud committed by employed persons.

I. Examining the Efficiency, Stability, and Integrity of the U.S. Capital Markets (Joint hearing with the Subcommittee on Securities, Insurance, and Investment of the Committee on Banking, Housing, and Urban Affairs) (December 8, 2010)

As part of its inquiry into the financial crisis and financial markets, in December 2010, the Subcommittee held a joint hearing with the Senate Banking Subcommittee on Securities, Insurance, and Investment to examine stock market dysfunctions and trading abuses that threaten market stability and investor confidence. The hearing examined challenges posed by modern trading practices in which U.S. stocks are now traded on 13 public exchanges and over 240 less transparent, off-exchange trading venues. In particular, the hearing examined how U.S. trading markets have been victims of, and remain vulnerable to, system-wide problems, and how Federal regulators do not have the necessary tools to police the markets for trading abuses.

At the hearing, the two Subcommittees released hearing exhibits documenting the issues. On May 6, 2010, U.S. capital markets suffered a systemic collapse when one futures order, placed at the wrong time and in the wrong way, set off a chain reaction that af-

fect the futures market, U.S. stock markets, and dragged the Dow Jones Industrial Average down nearly 700 points, wiping out billions of dollars of value in a few minutes for no apparent reason. Both the futures and stock markets recovered in about 20 minutes, but left investors and traders in shock. After 5 months of study, a joint CFTC-SEC report concluded that the crash was essentially triggered by one large sell order placed in a volatile futures market using an algorithm that set off a cascade of out-of-control computerized trading in futures, equities, and options. Using the events of May 6, 2010, as an example, the hearing examined risks to U.S. capital trading venues and potential tools for regulators to combat those risks.

In addition, the hearing examined issues related to trading abuses. Traders today buy and sell stock on and off exchange, simultaneously trading in multiple venues. Evidence indicates that orders in some stock venues are being used to affect prices in other stock venues; and that futures trades on CFTC-regulated markets are being used to affect prices on SEC-regulated options and stock markets. Some traders also use high-speed trading programs to execute their strategies, sometimes submitting and then cancelling thousands of phony orders to affect prices. The hearing discussed some of the tactics that sophisticated traders could use to manipulate prices, and potential tools for regulators to detect and stop those abuses.

The hearing took testimony from two panels. The first panel consisted of SEC Chairman Mary Schapiro and CFTC Chairman Gary Gensler. The second panel heard from stock traders, an academic expert, and the self-regulatory authority for stock exchanges. The panelists were Dr. James J. Angel, Ph.D., CFA, Associate Professor of Finance at Georgetown University McDonough School of Business; Thomas Peterffy, CEO of Interactive Brokers; Manoj Narang, CEO of Tradeworx; and Kevin Cronin, Global Head of Equity Trading at Invesco Ltd. The final panelist was Stephen Luparello, Vice Chairman of the Financial Industry Regulatory Authority (FINRA) which oversees multiple stock exchanges in the United States.

The witnesses generally agreed that the current market structure lacked transparency, and that a better system to identify orders, cancellations, and trading activity was needed. Mr. Peterffy testified about his concerns that U.S. financial markets may be susceptible to an intentional, malicious attack that could create a system-wide failure.

Regulatory coordination was identified as a critical priority, and implementing a comprehensive “consolidated audit trail” as soon as practically possible was suggested, although some concerns were raised about the timing and costs of those efforts. During the hearing, SEC Chairman Schapiro stated that the SEC’s expected time frame was shorter and costs lower for the consolidated audit trail than originally proposed. Regulators have also introduced “circuit breakers” to stop market trading in emergency conditions, including events similar to the May 6, 2010 market crash. Financial regulators, including the SEC and CFTC, have continued to work to enhance their abilities to detect and prevent market dysfunctions and trading abuses.

III. LEGISLATIVE ACTIVITIES DURING THE 111TH CONGRESS

The Permanent Subcommittee on Investigations does not have legislative authority, but because its investigations play an important role in bringing issues to the attention of Congress and the public, the Subcommittee's work frequently contributes to the development of legislative initiatives. The Subcommittee's activity during the 111th Congress was no exception, with Subcommittee hearings and Members playing prominent roles in the development of several legislative initiatives.

A. Credit Card Accountability Responsibility and Disclosure Act (Public Law 111-24)

On May 22, 2009, partly in response to Subcommittee hearings on abusive credit card practices, Congress enacted the Credit Card Accountability Responsibility and Disclosure Act (Credit CARD Act). This bill included provisions taken from a 2007 bill, S. 1395, the Stop Unfair Practices in Credit Cards Act, introduced by Senator Levin to put an end to the credit card abuses examined during the Subcommittee's 2007 hearings. It also included provisions from a 2009 bill, S. 414, introduced by Senator Chris Dodd, Chairman of the Committee on Banking, Housing, and Urban Affairs, and co-sponsored by Senator Levin and others. The Dodd-Levin bill incorporated almost all of the provisions from the Levin bill, added provisions from an earlier Dodd bill, and produced the strongest consumer protections of any credit card reform bill then in Congress. The Dodd-Levin bill provided the foundation for the final bill enacted into law.

Among other provisions, the law prohibits interest charges on any portion of a credit card debt which the cardholder paid on time during a grace period; prohibits interest rate hikes for cardholders who pay on time and meet their credit card obligations; prohibits the charging of over-the-limit fees unless the cardholder selects a card allowing the credit limit to be exceeded; limits the number of over-the-limit fees that can be charged for a single instance of exceeding a credit card limit; prohibits charging a fee to allow a cardholder to make a payment on a credit card debt; strengthens protections related to gift cards; and strengthens protections for underage cardholders.

B. Foreign Account Tax Compliance Act (FATCA), included as Subtitle A of Title V of the Hiring Incentives to Restore Employment (HIRE) Act (Public Law 111-147)

On March 18, 2010, partly in response to Subcommittee hearings on actions taken by tax haven banks to facilitate U.S. tax evasion by providing U.S. taxpayers with hidden offshore bank accounts, Congress enacted the Foreign Account Tax Compliance Act (FATCA), included as Subtitle A of Title V of the Hiring Incentives to Restore Employment (HIRE) Act. FATCA was sponsored by Congressman Charles Rangel and Senator Max Baucus.

Among other provisions, the law requires foreign financial institutions to disclose all accounts opened by U.S. persons or pay a 30 percent tax on any investment income generated by an institution's U.S. investments. It covers a broad range of foreign accounts, U.S.

persons, and foreign financial institutions. The law also includes several provisions addressing offshore tax abuses identified in earlier Subcommittee hearings, including provisions to prevent misuse of foreign trusts by tax dodgers, and to stop non-U.S. persons from using complex financial transactions to dodge payment of U.S. taxes on U.S. stock dividends.

C. Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203)

On July 21, 2010, partly in response to Subcommittee hearings on key causes of the financial crisis, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Prior to the bill's approval by the Senate, Banking Committee Chairman Chris Dodd stated that the Subcommittee's final hearing on the financial crisis, featuring Goldman Sachs, was "a critical hearing just days before we brought this bill to the floor which highlighted many of the problems that have persisted in the financial services sector."

The law addresses many of the problems identified in the Subcommittee investigation into the financial crisis. Among other provisions, it bars mortgage lenders from issuing stated income loans that fail to document the borrower's ability to repay the debt; restricts the use of loans with low teaser rates and negative amortization; and requires banks to retain a portion of the credit risk of each mortgage-backed security they issue. It also dissolves the Office of Thrift Supervision; and creates a Financial Oversight Stability Council to detect and prevent systemic risks to the U.S. financial system. In addition, it strengthens SEC oversight of credit rating agencies; imposes new restrictions on the credit rating process; and bans Federal regulations requiring reliance on credit ratings. The law also sharply limits high-risk proprietary trading by banks and other systemically significant firms; and bars them from engaging in conflicts of interest. In addition, the law addresses a number of problems identified in earlier Subcommittee hearings on commodity speculation and financial engineering. Among other provisions, the law mandates stronger regulation of all commodity markets and related commodity derivatives, provides stronger tools to restrain excessive speculation, and mandates the imposition of position limits in both futures and commodity swaps markets. It also repeals the statutory ban on regulating swaps and, for the first time, imposes a set of safeguards and oversight requirements for regulating all swaps and swap dealers. It also establishes the Consumer Financial Protection Bureau.

D. Hedge Fund Transparency Act (S. 344)

On January 29, 2009, to address issues related to hedge funds, some of which control billions of dollars and were active in mortgage markets during the financial crisis, Senators Grassley and Levin introduced the Hedge Fund Transparency Act. This bill sought to clarify the authority of the SEC to require hedge funds to register with the agency, disclose basic information about their ownership and operations, and comply with SEC information requests.

The bill also sought to require hedge funds to comply with the same anti-money laundering (AML) obligations as other financial institutions, including by establishing an AML program and reporting suspicious activity. Prior Subcommittee hearings had disclosed how some hedge funds bring millions of offshore dollars into the United States without any AML screening of the funds. Although the Grassley-Levin bill was not enacted into law, a year later, Title IV of the Dodd-Frank Wall Street Reform and Consumer Protection Act mandated hedge fund registration with the SEC, established an extensive system of hedge fund requirements, and gave the SEC broad authority to oversee and regulate these financial institutions. It did not, however, address the hedge fund AML exemption.

E. Authorizing the Regulation of Swaps Act (S. 961)

On May 4, 2009, to address issues related to the inability of the SEC and CFTC to regulate swap transactions, including credit default swaps that played a major role in the financial crisis, Senators Levin and Collins introduced the Authorizing the Regulation of Swaps Act. This bill sought to repeal statutory prohibitions that barred Federal regulators from overseeing or imposing capital, liquidity, disclosure, or other safeguards on swap transactions, including credit default swaps. The bill also sought to give Federal financial regulators immediate, clear authority to regulate the trillions of dollars in swap transactions taking place in the United States. Although this bill was not enacted into law, a year later, the Dodd-Frank Wall Street Reform and Consumer Protection Act included a similar repeal and provided broad authority for Federal financial regulators to oversee swap transactions, swap dealers, and swap markets.

F. Protect Our Recovery Through Oversight of Proprietary Trading Act (S. 3098)

On March 10, 2010, to address issues raised in the Subcommittee's hearing on the role of investment banks in the financial crisis, Senators Jeff Merkley and Levin, together with other cosponsors, introduced the Protect Our Recovery Through Oversight of Proprietary Trading Act (PROP Trading Act). Among other provisions, this bill sought to prohibit banks from engaging in proprietary trading; holding certain interests in, engaging in certain relationships with, or bailing out hedge funds or other private funds; and engaging in high-risk activities or material conflicts of interest. It also sought to restrict systemically significant financial firms from engaging in similar conduct without adequate capital and liquidity safeguards. These provisions sought to codify the "Volcker Rule," named after former Federal Reserve Chairman Paul Volcker who was the original proponent of these types of prohibitions and restrictions. In addition, the bill sought to ban conflicts of interest in asset-backed securitizations, such as when the sponsor of asset-backed securities bets against the securities it has sponsored. Provisions based upon the Merkley-Levin bill were included in Sections 619 and 620 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which has since been enacted into law.

G. Prevent Excessive Speculation Act (S. 447)

On Feb. 13, 2009, to address issues related to commodity speculation examined in past Subcommittee hearings, Senator Levin introduced the Prevent Excessive Speculation Act. This bill was similar to a bill with the same name introduced in the prior Congress by Senators Levin, Harkin, and Bingaman. Its objectives were to close loopholes in the U.S. commodities laws that impeded U.S. oversight of U.S. commodity trades on foreign exchanges and in the over-the-counter (OTC) markets and ensure that large commodity traders could not use those markets to avoid CFTC oversight or trading limits. Among other provisions, the bill sought to require the CFTC, rather than individual exchanges, to set position limits on the amount of futures contracts any trader could hold on regulated exchanges to prevent excessive speculation and price manipulation; close the so-called “London loophole” by giving the CFTC the same authority to police traders in the United States who trade U.S. futures contracts on a foreign exchange as it has to police trades on U.S. exchanges; and require foreign exchanges that want to install trading terminals in the United States to impose comparable position limits as the CFTC imposes on domestic exchanges to prevent excessive speculation and price manipulation. The bill also sought to strengthen disclosure, market oversight, and enforcement authority to protect U.S. consumers, businesses, and the economy from further energy and other pricing shocks. Although the Levin bill was not enacted into law, a year later, Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act provided the CFTC with similar authority, while also extending its authority over all commodity swaps.

H. Stop Tax Haven Abuse Act (S. 506)

On March 2, 2009, to address a myriad of tax abuses examined in past Subcommittee hearings, Senators Levin, Sheldon Whitehouse, McCaskill, and Bill Nelson from Florida introduced the Stop Tax Haven Abuse Act. This legislation was based upon 6 years of Subcommittee investigations into offshore tax havens, abusive tax shelters, and the professionals who design, market, and implement tax dodges. The Subcommittee has estimated that the loss to the Treasury from offshore tax abuses alone approaches \$100 billion per year.

Among other measures, the bill would establish rebuttable presumptions in tax enforcement cases that offshore companies and trusts are controlled by the U.S. persons who send or receive assets from them; authorize Treasury to take special measures against foreign jurisdictions and financial institutions that impede U.S. tax enforcement; and strengthen penalties on tax shelter promoters. It would also close offshore trust loopholes; require U.S. financial institutions to report certain offshore activities to the IRS; and require hedge funds and company formation agents to understand the identity of their offshore clients and report suspicious activity to U.S. law enforcement. In addition, it would prevent companies that are managed and controlled from the United States from claiming foreign status for tax purposes; close a loophole that enables non-U.S. persons to dodge payments of U.S. taxes on U.S. stock dividends; and ban tax patents. A companion bill was intro-

duced in the House (H.R. 1265). While the bills were not enacted into law, a year later, the Foreign Account Tax Compliance Act (FATCA) established an extensive new system to require foreign financial institutions to disclose all offshore accounts opened by U.S. persons. In addition, FATCA enacted into law provisions similar to those in the Stop Tax Havens Abuse Act to prevent misuse of foreign trusts by tax dodgers, and to stop non-U.S. persons from using complex financial transactions to dodge payment of U.S. taxes on U.S. stock dividends.

I. Ending Excessive Corporate Deductions for Stock Options Act (S. 1491)

On July 22, 2009, to close a tax loophole examined in a 2007 Subcommittee hearing showing that, each year, corporations claim tens of billions of dollars in stock option tax deductions in excess of the stock option expenses shown on their books, Senators Levin and McCain introduced S. 1491, the Ending Excessive Corporate Deductions for Stock Options Act.

IRS data shows that, each year from 2005 to 2009, corporations as a whole took U.S. tax deductions for stock options that were billions of dollars greater than the expenses shown on their financial statements. The total amount of excess tax deductions ranged from \$12 billion to \$61 billion per year. The IRS data also showed that a relatively small number of corporations took the majority of those excess deductions: 250 out of the millions of corporations that filed corporate tax returns each year.

The bill would amend the tax code to require that corporate tax deductions for stock option compensation not exceed the stock option expenses shown on the corporate books. It would also allow corporations to deduct stock option compensation in the same year it is recorded on the company books, without waiting for the options to be exercised; and ensure research tax credits use the same stock option deduction. The bill would also subject stock option pay for top corporate executives to the existing \$1 million cap on the tax deductions that publicly traded corporations can claim for executive pay, in order to prevent taxpayer subsidies of outsized executive compensation. The bill was referred to the Finance Committee which took no further action.

J. Incorporation Transparency and Law Enforcement Assistance Act (S. 569)

On March 11, 2009, Senators Levin, Grassley, and McCaskill introduced S. 569, the Incorporation Transparency and Law Enforcement Assistance Act, to protect the United States from U.S. corporations with hidden owners being misused to commit crimes, including terrorism, drug trafficking, money laundering, tax evasion, financial fraud, and corruption. The bill is based upon past Subcommittee investigations which found that the 50 States establish nearly two million U.S. companies each year without knowing who is behind them, the lack of ownership information requirements invite wrongdoers to incorporate in the United States, and that same lack of ownership information impedes U.S. law enforcement efforts.

Among other provisions, the bill would require the States to obtain beneficial ownership information for the corporations or limited liability companies formed within their borders; require States to provide that information to law enforcement in response to a subpoena or summons; and impose civil and criminal penalties for persons who knowingly submit false ownership information. The bill would also exempt all publicly traded corporations, since they already provide ownership information to the SEC. The bill was referred to the Committee on Homeland Security and Governmental Affairs which took no further action.

IV. REPORTS

In connection with its investigations, the Subcommittee frequently issues lengthy and detailed reports. During the 111th Congress, the Subcommittee released two such reports, listed below, both of which have been partly described in connection with Subcommittee hearings.

- A. *Excessive Speculation in the Wheat Market, July 21, 2009 (Report prepared by the Majority and Minority staffs, and printed in the record of the related Subcommittee hearing on July 21, 2009.)*

On June 24, 2009, Subcommittee Chairman Levin and then Acting Ranking Minority Member Coburn released a 261-page bipartisan staff report entitled, “Excessive Speculation in the Wheat Market.” This report, the result of a year-long Subcommittee investigation, examined how commodity index traders, in the aggregate, made such large purchases on the Chicago wheat futures market that they pushed up futures prices, disrupted the normal relationship between futures prices and cash prices for wheat, and caused farmers, grain elevators, grain processors, consumers, and others to experience significant unwarranted costs and price risks.

The report’s conclusions were based upon a review of millions of trading records from the Chicago Mercantile Exchange (CME), Kansas City Exchange, Minneapolis Grain Exchange, the Commodity Futures Trading Commission (CFTC), and others, which the Subcommittee used to track and analyze wheat prices. The data showed that commodity index traders—traders who are not producers or consumers of wheat, but buy wheat futures to help offset their financial exposure from selling commodity index instruments to third parties—injected billions of dollars, in the aggregate, into the wheat futures market over the last 6 years. Commodity index traders increased their holdings from a total of about 30,000 wheat contracts in 2004, up to 220,000 contracts in 2008. That sevenfold increase dramatically enlarged the market share of commodity index trading so that, in each year since 2006, commodity index traders held between 35 percent and 50 percent of all outstanding wheat futures contracts on the Chicago exchange.

The report determined that there was substantial and persuasive evidence that, by purchasing so many futures contracts, commodity index traders, in the aggregate, pushed up futures prices, created an unprecedented, large, and persistent gap between futures and cash wheat prices in the Chicago market, and impeded the two prices from converging at contract expiration. The report presented

evidence, for example, that the average gap between futures and cash prices on the expiration of futures contracts on the Chicago exchange, called the “basis,” grew from about 13 cents per bushel in 2005, to 34 cents in 2006, to 60 cents in 2007, to \$1.53 in 2008, a tenfold increase in 4 years. The Levin-Coburn report found that the large number of wheat futures contracts purchased by index traders on the Chicago exchange created additional demand for those contracts and was a major contributing factor in the increasing difference between wheat futures prices and cash prices from 2006 to 2008.

The report also determined that these unwarranted price changes imposed an undue burden on wheat farmers, grain elevators, grain merchants, grain processors, consumers, and others by making it difficult to use the futures market to protect against price changes and by generating significant unanticipated costs. Those costs included higher margin calls due to higher futures prices; failed hedges; and disruption of normal pricing patterns and relationships. The Levin-Coburn report concluded that the large number of wheat futures contracts purchased and held by commodity index traders on the Chicago futures exchange over the last 5 years constituted excessive speculation.

The Commodity Exchange Act requires the key Federal commodities regulator, the CFTC, to prevent excessive speculation by imposing position limits on commodity traders. But the report found that, in the wheat market, instead of restricting traders to no more than 6,500 wheat contracts at a time, its standard position limit for wheat, the CFTC had allowed some commodity index traders to hold up to 10,000, 26,000, or even 53,000 contracts at a time. The report also disclosed that, at the time of the inquiry, six commodity index traders were authorized to hold a total of up to 130,000 wheat contracts at a time, instead of up to 39,000 contracts, or one-third less if the standard position limits had been applied. The Levin-Coburn report concluded that the CFTC actions to waive position limits for commodity index traders facilitated excessive speculation in the Chicago wheat futures market, and that waiving position limits for those index traders was inconsistent with the CFTC’s statutory mandate to maintain position limits to prevent excessive speculation.

The report also examined the impact of inflated futures prices on Federal crop insurance, which is backed with taxpayer dollars. The report explained that the Federal crop insurance program uses settlement prices from certain futures contracts to determine how much money should be paid to a farmer who has purchased coverage and to set insurance premiums. Futures prices that are higher than justified by supply and demand fundamentals in the cash market increase the cost of purchasing crop insurance for farmers as well as for Federal taxpayers who share in the cost. The report explained that the increasing lack of predictability as to the difference between the futures price and the cash price for wheat—the “basis”—also undermines the reliability and effectiveness of the formulas used to calculate insurance payouts. The report concluded that, because Federal crop insurance uses futures prices in its calculations, inflated futures prices can inflate insurance premiums, whose cost is shared by farmers and taxpayers, and impair the ac-

curacy of the formulas used to determine the payouts to farmers, resulting in either overpayments or underpayments.

To stop excessive speculation in the wheat market, the Levin-Coburn report recommended that the CFTC phase out existing waivers that permitted commodity index traders to exceed the standard limit of 6,500 wheat contracts per trader at any one time, and apply the standard position limit to all commodity index traders in the wheat market. If pricing problems persisted on the Chicago exchange, the report recommended lowering the position limit further, such as to the 5,000 contract limit that applied to wheat traders until 2005. In addition, the report recommended that the CFTC undertake an analysis of the impact of commodity index trading on other commodities, including crude oil, to determine if excessive speculation was distorting prices, and whether position limit waivers for index traders should be phased out to eliminate excessive speculation. The report also urged the CFTC to develop reliable data on the extent to which commodity index traders purchase non-agricultural commodity futures contracts, especially for crude oil and other energy commodities, so that data could be analyzed to detect and prevent excessive speculation.

This report was the fifth in a series released by the Subcommittee on commodity pricing issues since 2003. The first four focused on energy prices, including for gasoline, crude oil, and natural gas. This report was the first by the Subcommittee to examine agricultural prices.

B. Keeping Foreign Corruption Out of the United States: Four Case Histories, February 4, 2010 (Report prepared by the Majority and Minority staffs, and released in conjunction with and reprinted in the record of a related Subcommittee hearing on February 4, 2010.)

On February 4, 2010, Subcommittee Chairman Levin and Ranking Minority Member Coburn released a 386-page bipartisan staff report entitled, “Keeping Foreign Corruption Out of the United States: Four Case Histories.” The report examined how politically powerful foreign officials, their relatives, and close associates—referred to in international agreements as “Politically Exposed Persons” (PEPs)—used the services of U.S. professionals and financial institutions to bring large amounts of suspect funds into the United States to advance their interests. It is the latest in a series of Subcommittee hearings and reports examining how foreign corruption affects the United States.

During the course of its investigation, the Subcommittee staff conducted over 100 interviews, issued over 50 subpoenas, and reviewed millions of pages of documents. Using four case histories, the report exposed how some PEPs used U.S. lawyers, real estate and escrow agents, lobbyists, bankers, and even university officials, to circumvent U.S. anti-money laundering (AML) and anti-corruption safeguards. It also identified some of the legal gaps, poor due diligence practices, and inadequate PEP controls that, at times, made these tactics possible.

Obiang Case History. The first case history focused on Teodoro Obiang, son of the President of Equatorial Guinea (EG) and an EG cabinet minister who, from 2004 to 2008, used U.S. professionals

and financial institutions to move over \$110 million in suspect funds into the United States. At the time of the report, Mr. Obiang was the subject of an ongoing U.S. criminal investigation, had been identified in corruption complaints filed in France, and was a focus of a 2004 Subcommittee hearing showing how Riggs Bank facilitated EG officials in opening accounts and engaging in suspect transactions.

The report detailed how two U.S. lawyers, Michael Berger and George Nagler, helped Mr. Obiang circumvent U.S. AML and PEP controls at U.S. financial institutions by allowing him to use attorney-client, law office, and shell company accounts as conduits for his funds and without alerting the bank to his use of those accounts. If a bank later uncovered Mr. Obiang's use of an account and closed it, the lawyers helped him open another. The lawyers also formed five U.S. shell companies for Mr. Obiang, with names that included Beautiful Vision, Unlimited Horizon, and Sweetwater Malibu. In addition, two U.S. real estate agents, Neal Baddin and John Kerrigan, helped Mr. Obiang buy and sell high-end real estate in California including the purchase of a \$30 million Malibu residence with funds wire transferred from Equatorial Guinea. Mr. Obiang also used a U.S. escrow agent to purchase a \$38.5 million U.S.-built Gulfstream jet. When one escrow agent, McAfee and Taft, as a voluntary AML precaution, refused to proceed without information about the source of the funds for the purchase, another escrow agent, International Airline Title Services Inc., stepped in and completed the transaction with no questions asked. U.S. law currently exempts attorneys, real estate agents, and escrow agents from the PATRIOT Act's requirement to establish AML programs. Mr. Obiang also brought large amounts of suspect funds into the United States by taking advantage of U.S. wire transfer systems that were not programmed to block wire transfers bearing his name.

Bongo Case History. The second case history focused on Omar Bongo, President of Gabon for 41 years until his death in June 2009. President Omar Bongo was a focus of a 1999 Subcommittee hearing showing how he used offshore shell companies to move over \$100 million in suspect funds through accounts at Citibank Private Bank. He was also mentioned in connection with the ELF oil scandal and recent corruption complaints filed in France. The case history focused on several examples of how President Bongo used lobbyists and bank accounts belonging to family members to bring suspect funds into the United States.

The report detailed how, from 2003 through at least 2007, Mr. Bongo employed a U.S. lobbyist, Jeffrey Birrell, to purchase six U.S.-built armored vehicles and obtain U.S. Government permission to buy six U.S.-built C-130 military cargo aircraft from Saudi Arabia to support the Bongo regime. As part of the armored car and C-130 transactions, over \$18 million was wire transferred from Gabon into U.S. corporate bank accounts controlled by Mr. Birrell. Mr. Birrell received the funds primarily from President Omar Bongo and an entity called Ayira. He later transferred \$9.2 million of the funds provided by Ayira to a foreign account held in the name of President Omar Bongo in Malta. He also wire transferred over \$4.2 million to foreign bank accounts opened in the name of

a senior Bongo adviser, and over \$1 million in payments to foreign bank accounts held in the name of various “consultants.” Mr. Birrell’s corporate accounts served as a conduit for those Bongo funds.

In addition, President Bongo provided large amounts of cash to his daughter, Yamilee Bongo-Astier, who deposited the cash into bank accounts and safe deposit boxes at U.S. financial institutions in New York from 2000 to 2007. Ms. Bongo-Astier made multiple large dollar deposits into her accounts at banks that were unaware of her PEP status, but knew she was an unemployed student. One bank closed her account after receiving an \$183,500 wire transfer from Gabon; another did so after discovering she had \$1 million in \$100 bills in her safe deposit box, which she said her father had brought into the United States using his diplomatic status and without declaring the cash to U.S. authorities. Another member of the Bongo family, Inge Lynn Collins Bongo, was the wife of Ali Bongo, the current President of Gabon and its former Minister of Defense. In 2000, she formed a U.S. trust, the Collins Revocable Trust, and opened accounts in the name of that Trust at banks in California. For 3 years, from 2000 to 2003, Mrs. Bongo accepted multiple large offshore wire transfers into the Trust accounts and used the funds to support a lavish lifestyle and move money among a network of bank and securities accounts benefitting her and her husband. Due to inadequate PEP lists prepared by third party vendors, the financial institutions administering the Bongo accounts were, more often than not, unaware of their clients’ PEP status and did not subject their accounts to enhanced monitoring.

Douglas-Abubakar Case History. The third case history focused on Jennifer Douglas, a U.S. citizen and fourth wife of Atiku Abubakar, former Vice President and former candidate for President of Nigeria. The report detailed how, from 2000 to 2008, Ms. Douglas helped her husband bring over \$40 million in suspect funds into the United States through wire transfers sent by offshore corporations to U.S. bank accounts. In a 2008 civil complaint, the SEC alleged that Ms. Douglas received over \$2 million in bribe payments in 2001 and 2002, from Siemens AG, a major German corporation. While Ms. Douglas denied wrongdoing, Siemens had already pled guilty to U.S. criminal charges, settled civil charges related to bribery, and told the Subcommittee that it had sent the payments to one of her U.S. accounts. In 2007, Mr. Abubakar was the subject of corruption allegations in Nigeria related to the Petroleum Technology Development Fund.

Of the \$40 million in suspect funds, \$25 million was wire transferred by offshore corporations into more than 30 U.S. bank accounts opened by Ms. Douglas, primarily by Guernsey Trust Company Nigeria Ltd., LetsGo Ltd. Inc., and Sima Holding Ltd. The U.S. banks maintaining those accounts were, at times, unaware of her PEP status, and they allowed multiple, large offshore wire transfers into her accounts. As each bank began to question the offshore wire transfers, Ms. Douglas indicated that all of the funds came from her husband and professed little familiarity with the offshore corporations actually sending her money. When one bank closed her account due to the offshore wire transfers, her lawyer helped convince other banks to provide new accounts. In addition,

two of the offshore corporations wire transferred about \$14 million over 5 years to American University in Washington, DC, to pay for consulting services related to the development of a Nigerian university founded by Mr. Abubakar. American University accepted the wire transfers without asking about the identity of the offshore corporations or the source of their funds, because under current law, the University had no legal obligation to inquire.

Angola Case History. The fourth and final case history examined three Angolan PEP accounts, involving an Angolan arms dealer, an Angolan government official, and a small Angolan private bank that catered to PEP clients, to show how the accountholders gained access to the U.S. financial system and attempted to exploit weak U.S. AML and PEP safeguards.

First, the report examined Pierre Falcone, a notorious arms dealer who supplied weapons during the Angolan civil war in violation of a U.S. arms embargo, was a close associate of Angolan President Jose Eduardo Dos Santos, and was the target of criminal investigations resulting in his imprisonment in France. The report detailed how he used personal, family, and U.S. shell company accounts at Bank of America in Arizona to bring millions of dollars in suspect funds into the United States and move those funds among a worldwide network of accounts. Bank of America maintained nearly 30 accounts for the Falcone family from 1989 to 2007, did not treat Mr. Falcone as a PEP, and did not consider his accounts to be high risk, even after learning in 2005 that he was an arms dealer and had been imprisoned in the past. In 2007, after receiving a Subcommittee inquiry about the Falcone accounts, the bank conducted a new due diligence review, closed the accounts, and expressed regret at providing Mr. Falcone with banking services for years.

Next, the report examined Dr. Aguinaldo Jaime, a senior Angolan government official, who was head of Banco Nacional de Angola (BNA), the Angolan Central Bank, when he attempted, on two occasions in 2002, to transfer \$50 million in government funds to a private account in the United States, only to have the transfers reversed by the U.S. financial institutions involved. Dr. Jaime invoked his authority as BNA Governor to wire transfer the funds to a private bank account in California during the first attempt and, during the second attempt, to purchase \$50 million in U.S. Treasury bills for transfer to a private securities account in California. Both transfers were initially allowed, then reversed by bank or securities firm personnel who became suspicious of the transactions. Partly as a result of those transfers and the corruption concerns they raised, in 2003, Citibank closed not only the accounts it had maintained for BNA, but all other Citibank accounts for Angolan government entities, and closed its office in Angola. The report observed that, in contrast, HSBC continued to provide banking services to BNA in the United States and elsewhere, and may be providing the Central Bank with offshore accounts in the Bahamas.

Finally, the report examined Banco Africano de Investimentos (BAI), a \$7 billion private Angolan bank whose largest shareholder was Sonangol, the Angolan State-owned oil company. The report detailed how BAI offered banking services to Sonangol, Angolans in the oil and diamond industries, and Angolan government officials. It noted that, over the last 10 years, BAI gained entry to the U.S.

financial system through accounts at HSBC in New York, using HSBC wire transfer services, foreign currency exchange, and U.S. dollar credit cards for BAI clients, despite providing troubling answers about its ownership and failing to provide a copy of its AML procedures to HSBC after repeated requests. Despite the presence of PEPs in BAI's management and clientele, HSBC decided against designating BAI as a "Special Category of Client" requiring additional oversight until November 2008, years after the account was first opened.

The Levin-Coburn report contained a number of recommendations to stop PEPs from misusing U.S. professionals and financial institutions to bring illicit funds into the United States. Among other measures, the report urged Congress to enact a law and the U.S. Treasury Department to issue rules implementing the PEP controls identified in a World Bank study, including by requiring banks to use reliable PEP databases to screen clients, use account beneficial ownership forms that ask for PEP information, obtain financial declaration forms filed by PEP clients with their governments, and conduct annual reviews of PEP account activity to detect and stop suspicious transactions. The report also recommended that Treasury repeal all of the exemptions it granted in 2002, from the PATRIOT Act requirement to establish AML programs, including for real estate and escrow agents. The report also recommended that Treasury require U.S. financial institutions to institute stronger controls on attorney-client and law office accounts to prevent circumvention of U.S. AML and PEP controls. In addition, the Levin-Coburn report recommended that Congress enact legislation requiring persons forming U.S. corporations to disclose the names of the beneficial owners of those U.S. corporations. Finally, the report recommended strengthening U.S. immigration and visa provisions to keep foreign corruption out of the United States.

V. GAO REQUESTED AND SPONSORED REPORTS

In connection with its investigations, the Subcommittee makes extensive use of the resources and expertise of the Government Accountability Office (GAO), the Offices of Inspectors General (OIGs) at various Federal agencies, and other entities. During the 111th Congress, the Subcommittee requested a number of reports and studies on issues of importance to Congress and to U.S. consumers. Most of these reports have already been described in connection with Subcommittee hearings. Several additional reports that were of particular interest, and that were not covered by Subcommittee hearings, are the following:

A. Bank Secrecy Act: Federal Agencies Should Take Action to Further Improve Coordination and Information-Sharing Efforts (GAO-09-227), February 12, 2009

Since 1999, the Subcommittee has conducted multiple investigations into money laundering vulnerabilities affecting the United States and worked to strengthen U.S. anti-money laundering (AML) laws. In 2009, in response to a bipartisan request from Subcommittee Chairman Levin and Ranking Minority Member Coleman, later replaced by Senator Coburn, GAO issued a report providing an overview of Federal AML programs designed to protect

the United States from terrorists, criminals, and other wrongdoers. The GAO report disclosed that, while AML programs at U.S. banks are well developed, AML programs at securities firms, commodity traders, and money service businesses are only partially in place, while AML programs at hedge funds, private equity funds, and other covered businesses have yet to be mandated or implemented.

The Federal legal framework for combating money laundering began with the Bank Secrecy Act of 1970, has been repeatedly amended over the years, and was substantially strengthened by the USA PATRIOT Act of 2001 (Patriot Act). The PATRIOT Act, for the first time, required AML safeguards to be required for business sectors other than banking. The lead Federal agency charged with administering AML requirements is the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury. FinCEN works with and relies on multiple Federal and State agencies to develop AML regulations, oversee AML compliance, and take AML enforcement actions. GAO was asked to describe how AML responsibilities were distributed; describe how FinCEN and other agencies were implementing their AML responsibilities; and evaluate their coordination efforts. GAO concluded that, while Federal agencies had enhanced their AML compliance programs over the years, more work was needed to strengthen coordination and information-sharing efforts.

The GAO report explained that FinCEN, with a staff of about 300 and an annual budget of about \$73 million, provided general oversight of U.S. AML programs and was charged by Treasury with issuing AML regulations and enforcing compliance. The report also explained that FinCEN had delegated primary AML regulatory, examination, and enforcement authority to other Federal agencies. For example, FinCEN had delegated AML oversight of the banking sector to the five Federal banking agencies, the Federal Reserve System, Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA). FinCEN delegated AML oversight of securities firms to the Securities and Exchange Commission (SEC) and of commodity firms to the Commodity Futures Trading Commission (CFTC), both which, in turn, delegated day-to-day oversight to certain self-regulatory organizations (SROs), such as the Financial Industry Regulatory Agency (FINRA), National Futures Association, and Chicago Mercantile Exchange. FinCEN had delegated AML oversight of all other types of covered financial institutions, including money service businesses, casinos, and insurance companies—sometimes referred to as nonbank financial institutions or NBFIs—to the Internal Revenue Service (IRS). Many of these agencies also had independent statutory authority to impose AML requirements.

GAO determined that FinCEN worked with each of the agencies to develop appropriate regulations, examination standards, and enforcement actions to ensure compliance with Federal AML laws. Key AML obligations include implementing written AML policies and procedures, appointing an AML compliance officer, providing AML training to personnel, and auditing AML compliance. Most covered institutions are also required to file suspicious activity reports with FinCEN. GAO determined that FinCEN also retained

enforcement authority for AML violations, and could take enforcement actions independently or concurrently with the functional regulators.

The GAO report identified significant discrepancies among the agencies in the number of examiners with AML expertise and the frequency of AML examinations. The report showed that banking institutions underwent a higher rate of AML examinations compared to other covered firms, including broker-dealers, mutual funds, and commodity firms. The report also showed that the number of AML examinations performed by Federal agencies had declined in recent years, with a corresponding decrease in the number of AML violations identified and in the number of enforcement actions taken. With respect to the IRS, the GAO report explained that the IRS has no independent AML enforcement authority and referred its cases to FinCEN for enforcement actions. The GAO report found that, from 2006 to 2008, the IRS had referred about 50 cases to FinCEN which took an average of 485 days—more than 1 year—to review the referrals. The GAO report did not specify how any enforcement actions were actually taken by FinCEN on the IRS-referred cases. GAO reported that FinCEN and the IRS had accepted a GAO recommendation to strengthen FinCEN procedures for handling enforcement referrals.

The GAO report also stated that, while banking and IRS examiners used AML examination materials available to the public, securities and commodity examiners use examination materials which were not publicly available and could not be discussed in a public setting. The GAO report did not provide any rationale for keeping the manuals secret and pointed out the benefits of Federal regulators developing and applying consistent AML examination standards across business sectors. GAO also noted that while FinCEN and the IRS had issued an examination manual for money services businesses, no such manual existed for other types of NBFIs with AML obligations. GAO also found that the IRS had not fully coordinated its examinations of money service businesses with the States, potentially missing opportunities to reduce duplication and leverage resources.

The GAO report contained a number of criticisms of FinCEN. GAO noted, for example, that FinCEN took years to conclude AML memorandums of understanding with the key Federal agencies charged with AML oversight. It also took over a year to review cases referred by the IRS for enforcement actions. The report noted that FinCEN took until 2006, to replace a paper-based system for tracking case referrals with an electronic case management system. GAO also noted that, despite a 2001 PATRIOT Act requirement for all covered businesses to institute AML programs to prevent terrorist financing and money laundering, FinCEN had yet to issue regulations requiring several of these firms to set up AML programs, including hedge funds and private equity funds that funnel billions of dollars in offshore funds into the United States. In 2002, FinCEN proposed a rule to cover those investment firms, but never finalized it. The GAO report also highlighted and recommended reversing an ongoing FinCEN policy that denied direct access to its database of suspicious activity and currency reports for SEC and CFTC self-regulatory organizations and some State regulators.

GAO also recommended that all of the Federal and State agencies involved with AML oversight establish a nonpublic forum in which they could discuss and strengthen coordination of regulatory, examination, and enforcement issues.

B. Securities and Exchange Commission: Oversight of U.S. Equities Market Clearing Agencies (GAO-09-318R), February 26, 2009

In response to a joint request by Subcommittee Chairman Levin and Finance Committee Ranking Minority Member Grassley, GAO released a report analyzing the clearing and settlement process for U.S. equities markets, with a particular focus on transactions in which one party fails to deliver the security promised. Failures to deliver (FTDs) had become a focus of market participants complaining of manipulative short selling.

The report observed that the prompt, accurate, and efficient settlement of trades is essential to the smooth functioning of any equities market. When investors agree to trade an equity security, the purchaser promises to deliver cash to the seller, and the seller promises to deliver the security to the purchaser. The process by which the seller receives payment and the buyer receives the security is known as the clearance and settlement process and is carried out by a clearing agency. The report noted that, in U.S. equities markets, a centralized clearance and settlement system had been established to reduce risks and increase market efficiencies. Trades were typically cleared and settled through self-regulatory organizations (SRO) that register with and are subject to oversight by the Securities and Exchange Commission (SEC). GAO reported that, in the United States, virtually all equity securities trades were cleared and settled through the National Securities Clearing Corporation (NSCC) or the Depository Trust Company (DTC), both of which were clearing agency subsidiaries of the Depository Trust and Clearing Corporation (DTCC).

The GAO report provided a detailed description of the NSCC and DTC processes for clearing and settling equities trades, as well as the SEC's oversight efforts through its examination program for clearing agencies. The report included an explanation of how the NSCC and DTC systems handled FTDs.

GAO explained that the U.S. clearance and settlement process for equity securities operated on a standard 3-day settlement cycle. The GAO report stated that, according to DTCC, 99.9 percent of daily equities transactions by dollar value cleared and settled within the standard 3-day settlement period. In the remaining transactions, the seller failed to deliver the securities on time, resulting in an FTD. GAO reported that, as of December 31, 2007, the value of aggregated FTDs was \$7.5 billion.

GAO reported that, due to the volume and value of trading in U.S. equity markets, NSCC netted trades and payments among its participants using a Continuous Net Settlement System. GAO explained that this system was a book entry accounting system, whereby each NSCC participant's daily purchases and sales of securities, based on trade date, were automatically netted into one long position (right to receive) or one short position (obligation to deliver) for each security purchased or sold. The participant's cor-

responding payment obligations were, similarly, netted into one obligation to pay or one obligation to receive money.

GAO explained that, for each participant with a short position on settlement date, NSCC instructed the securities depository designated by the participant, typically DTC, to deliver securities from the participant's account at the depository to the NSCC's account. NSCC then instructed the depository to deliver those securities from NSCC's account to participants with net long positions in the security. If a participant failed to deliver the total number of securities that they owed NSCC on a particular settlement date, NSCC might be unable to meet its delivery obligations, resulting in FTDs for participants with net long positions.

GAO reported that, according to the SEC, many FTDs were caused by processing delays or mechanical errors, and were typically resolved within a few days. GAO observed that FTDs could also result from naked short selling. While not defined in the Federal securities laws, GAO explained that, according to the SEC, "naked" short selling generally referred to selling a security without having purchased or borrowed it to make delivery, potentially resulting in a FTD. The GAO report explained that FTDs may deprive shareholders of the benefits of ownership, such as voting and lending. In addition, GAO reported that, in recent years, investors, publicly traded companies, and others had expressed concerns that FTDs may be indicative of an illegal trading strategy known as manipulative naked short selling, in which short sellers attempt to profit by inundating the market with sales of a security to artificially drive down its stock price. GAO reported that, to facilitate and monitor industry compliance with rules and emergency orders to curb FTDs and potential manipulative naked short selling, NSCC electronically submitted FTD data on a daily basis to the SEC and U.S. stock exchanges.

The GAO report also explained that, to minimize FTDs, if a participant's account did not have the required amount of securities to be delivered, NSCC used an automated Stock Borrow Program to borrow the shares to meet as many of the participant's delivery obligations as possible. Under this program, NSCC participants could instruct NSCC on the specific securities from their DTC account that were available for borrowing to cover NSCC's Continuous Net Settlement System delivery shortfalls. Any shares that NSCC borrowed were debited from the lending participant's DTC account, delivered to NSCC, and, subsequently, delivered to a NSCC participant with a net short position. NSCC created a right to receive a (net long) position for the lender in the Continuous Net Settlement System to show that it was owed securities. Until the securities were returned, the lending participant no longer had ownership rights in them and, therefore, could not re-lend them. The GAO report also explained that any delivery made using the Stock Borrow Program did not relieve the NSCC participant that failed to deliver of its obligation to deliver the relevant securities to the NSCC.

In addition to describing the clearance and settlement process in U.S. stock markets, the GAO report reviewed the examination program constructed by the SEC for clearing agencies. GAO explained that the SEC Office of Compliance Inspections and Examinations (OCIE) administered the SEC's nationwide examination and in-

spection program, including for clearing agencies. GAO determined that the OCIE conducted both regular cycle and special examinations for clearing agencies. GAO reported that the largest clearing agencies, including NSCC and DTC, were examined every other year, while smaller clearing agencies were examined on a 2- or 3-year cycle, depending on OCIE resources. GAO explained that these examinations included reviewing the clearing agency's process for handling FTDs.

C. Regulation SHO: Recent Actions Appear to Have Initially Reduced Failures to Deliver, but More Industry Guidance Is Needed (GAO-09-483), May 12, 2009

In response to a joint request by Subcommittee Chairman Levin, Finance Committee Ranking Minority Member Grassley, and Judiciary Subcommittee on Crime and Drugs Chairman Specter, GAO released a report analyzing recent actions taken by the Securities and Exchange Commission (SEC) to curb failures to deliver securities and manipulative naked short selling.

A "short sale" occurs when a person sells a borrowed stock. A "naked" short sale refers to selling short without having actually borrowed the securities needed to make delivery. After making the sale, the seller then "covers" the position by actually buying the stock and returning it to the lender. If the stock price falls in value in the interim, then the short seller profits by selling the stock for more than it cost to repurchase the shares, in other words by selling high and then buying low. The GAO report explained, "In general, short selling is used to profit from an expected downward price movement, provide liquidity in response to unanticipated demand, or hedge the risk of a long position . . . in the same or related security."

Because short sellers may profit on the decline in a company's stock price, they may seek ways to drive down the stock prices of the companies in which they invest. In addition, while most short selling is legal, some is not. The GAO report observed that "short selling also may be used to illegally manipulate the prices of securities," by depressing the price of a security to induce others to buy or sell it. Naked short selling is of particular concern since it may be used to create an artificial downward pressure on a stock price by flooding the market with sales.

Failures to deliver (FTD) occur when the seller of a stock does not deliver the stock to the purchaser within the required settlement period, which is typically 3 days. Although FTDs can be caused by mechanical errors and processing delays, they also result from naked short selling. The GAO report observed that FTDs "may undermine the confidence of investors, making them reluctant to commit capital to an issuer that they believe to be subject to such manipulative conduct."

In 2004, the SEC issued Regulation SHO to, among other things, address large and persistent FTDs and curb the potential for manipulative naked short selling in equity securities. In July 2008, in the midst of the financial crisis, the SEC issued an emergency order that restricted short sales in the publicly traded securities of 19 large financial institutions, unless the seller had borrowed, or arranged to borrow, the security prior to the sale, and required de-

livery of the security on the settlement date. Almost immediately, the order was amended to exempt market makers engaged in market making transactions and the sales of restricted securities. This “pre-borrow” requirement expired in August 2008. In September 2008, the SEC issued another emergency order that, among other measures, temporarily increased delivery requirements on all short sales, implemented an anti-fraud rule regarding short sales, and temporarily banned all short sales involving approximately 800 financial institutions. The enhanced delivery requirement in this temporary order was scheduled to expire on July 31, 2009.

GAO was asked to provide an overview of Regulation SHO and related SEC actions; regulators’ and market participants’ views on the effectiveness of the rule; and regulators’ efforts to enforce the rule. As part of its inquiry, GAO analyzed FTD data from January 2005 through December 2008. The GAO report found that the SEC’s actions in September 2008, had resulted in a significant decrease in the number of securities with large FTDs. GAO also found that the staff of the SEC and Financial Industry Regulatory Authority (FINRA) agreed that, in connection with short selling, market manipulation “is difficult to detect and successfully prosecute, and the potential damage to an individual company could be severe.” The SEC and FINRA staff also agreed that the potential for market manipulation continued even under the temporary rule.

Some of the market participants interviewed by GAO recommended that the SEC issue a final rule requiring all short sellers to borrow securities before any short sale. The SEC staff said the Commission was considering imposing a pre-borrow requirement to curb FTDs and market manipulation related to naked short selling. The SEC staff said that the Commission was also considering, however, whether the costs of a pre-borrow requirement might outweigh the benefits because, among other factors, FTDs represented only 0.01 percent of the dollar value of trades. The GAO report also recommended that the SEC improve industry guidance regarding the steps that should be taken to implement a pre-borrow requirement.

D. Credit Cards: Fair Debt Collection Practices Act Could Better Reflect the Evolving Debt Collection Marketplace and Use of Technology (GAO-09-748), September 21, 2009

To advance the Subcommittee’s longstanding concerns about credit card and debt collection abuses, four Subcommittee members, Chairman Levin, Ranking Minority Member Coleman, later replaced by Senator Coburn, and Senator McCaskill, asked GAO to conduct an investigation into credit card debt collection practices. The resulting GAO report provided a detailed description of the credit card debt collection industry and abusive debt collection practices; found that the key Federal law, the Fair Debt Collection Practices Act (FDCPA), was outdated and ineffective; reported Federal enforcement cases to stop abusive practices were infrequent; and demonstrated that consumer protections against abusive debt collection practices needed to be modernized and strengthened.

To conduct its inquiry, GAO analyzed documents and interviewed representatives from six large credit card issuers, six third-party debt collection agencies, six debt buyers, two law firms, Federal

and State agencies, and attorneys and organizations representing consumers and collectors.

GAO presented evidence indicating that credit card delinquency rates had spiked since 2007, with more than \$23 billion in nonsecuritized debt 30 to 180 days late in 2008. According to Federal Reserve data cited in the report, about 6.6 percent of credit cards were 30 or more days past due in the first quarter of 2009, the highest rate in 18 years.

To collect this debt, GAO determined that credit card issuers typically used their own personnel, in internal collection departments, to collect on credit card debt that is less than 6 months old, but often hired third-party collection agencies or law firms to collect older debt. GAO noted that contracts between the credit card issuers and debt collectors often specified the collection policies and practices that should be used. In addition, credit card issuers sometimes sold portfolios of delinquent credit card debt to third party debt-buyers, trading potential long-term cash flows for the short-term proceeds of a sale.

GAO reported that, according to the U.S. Census Bureau, in 2006, more than 4,400 debt collection companies in the United States employed approximately 143,000 people. Many of those companies were very small, while a few debt collection firms were extremely large: 43 percent employed 4 or fewer people, while about 3 percent employed 500 or more. GAO also reported that the debt buying industry had grown, by one industry estimate, from \$57 billion of purchased debt in 2003, to \$100 billion in 2006.

The GAO report described how different types of credit card debt were categorized and sold. GAO observed that credit card accounts could be resold multiple times, and that several factors influenced the price of these accounts, including their age, location, and number of times previously placed for collection. The report also presented evidence that the price of delinquent debt had declined in recent years. According to one industry source, “fresh” debt—debt that is 6 to 9 months past due and never placed with a collection agency—sold for about 15 cents on the dollar in March 2007; in January 2009, it sold for about 6 cents on the dollar. “Tertiary” debt—debt that is more than 2 years past due or previously placed with two collection agencies—sold for about 4 cents on the dollar in March 2007; in January 2009, it sold for between 1 and 2 cents.

GAO also reported on how credit card issuers and third-party debt collectors attempted to collect debt, citing evidence of a rising volume of debt collection court cases placing increasing burdens on State courts. GAO noted that the Federal Trade Commission has reported that the majority of cases on many State court dockets on any given day are debt collection cases. GAO also reported that a study by the Urban Justice Center estimated, for example, that in 2006, 320,000 debt collection cases were filed just in New York City’s Civil Court. That study also estimated that, in Chicago’s Cook County Circuit Court, more than 119,000 civil debt collection lawsuits were pending as of June 2008, and that municipal court judges in Ohio handle as many as 1,000 debt collection cases per week. GAO also cited a review by the Boston Globe which found that at least 60 percent of small claims cases filed in Massachusetts in 2005, were filed by debt collectors. GAO reported that con-

sumer groups, attorneys, and the FTC all agree that the number of debt collection State court cases had increased in recent years and was putting a strain on State court systems.

The GAO report explained that the primary Federal law governing third-party debt collection, FDCPA, prohibited debt collectors from using abusive, deceptive, and unfair collection practices. GAO also explained that the Federal Trade Commission (FTC), the lead Federal agency for detecting and taking enforcement actions involving FDCPA violations, received more complaints about the debt collection industry than any other industry, logging about 79,000 complaints on third-party debt collectors in 2008 alone, which was almost 19 percent of all of the complaints the FTC received.

The GAO report explained that the FTC was not the only agency charged with stopping debt collection abuses. Since most large credit card issuers are nationally-chartered banks, Federal banking regulators were also responsible for overseeing their debt collection practices and protecting consumers from unfair practices. In addition, States enforced State fair debt collection laws, some of which provided protections additional to those of FDCPA.

The GAO report described a variety of abusive practices engaged in by some debt collectors. They included trying to collect debt that is not owed or is beyond the statute of limitations, making harassing telephone calls prohibited by law, threatening to make arrests that the debt collector had no authority to make, and collecting debt that had been discharged in bankruptcy. GAO observed that the extent of abusive practices could not be determined due to the lack of data. GAO also noted that debt buyers and collection agencies often may not have adequate information about the accounts they have purchased or access to the billing statements or other documentation needed to verify the debt, sometimes leading a debt collector to try to collect from the wrong consumer or for the wrong amount. In addition, GAO noted that, as credit card debts were sold and resold, verification of the facts became more difficult as the owner of the debt became farther removed from the original creditor.

The GAO report determined that, despite receiving tens of thousands of complaints, Federal agencies took only 32 formal enforcement actions over the last decade related to abusive debt collection activities. Those formal enforcement actions included 24 enforcement actions by the FTC against debt collectors, at least 13 of which involved credit card debt; and three formal enforcement actions by the FDIC against banks involved in collecting credit card debt. These infrequent enforcement actions were dwarfed by the number of complaints of abusive practices and the volume of debt collection activity documented in the report.

The GAO report also found that the law had not kept up with new technologies and evolving debt collection practices. GAO noted that communication technologies that have become common involving mobile telephones, email, caller identification, answering machines, and fax machines were not prevalent when FDCPA was enacted in 1977. In addition, GAO noted that the FTC was not given rulemaking authority to implement the FDCPA, which limited the FTC's ability to address such basic issues as how debt collectors

should use email, cell telephone numbers, and answering machines in their debt collection efforts and what efforts they should undertake to verify account and debt information. GAO indicated that most stakeholders involved in the process of debt collection with whom GAO spoke, including consumer protection groups, State and Federal agencies, credit card issuers, debt collectors, and debt buyers, expressed support for updating the FDCPA. GAO explicitly recommended that Congress amend the law to update its provisions.

AD HOC SUBCOMMITTEE ON STATE, LOCAL, AND PRIVATE
SECTOR PREPAREDNESS AND INTEGRATION

CHAIRMAN: MARK L. PRYOR, CHAIRMAN

RANKING MINORITY MEMBER: JOHN ENSIGN

I. HEARINGS

1. Counternarcotics Enforcement: Coordination at the Federal, State, and Local Level (April 21, 2009)

Witnesses: John Leech, Acting Director, Office of Counternarcotics Enforcement, U.S. Department of Homeland Security; Frances Flener, Arkansas State Drug Director, State of Arkansas; Douglas C. Gillespie, Sheriff, on behalf of Major Cities' Chiefs Association, Major County Sheriffs' Association and Las Vegas Metropolitan Police Department, Las Vegas, Nevada.

The purpose of this hearing was to assess the role and mission of DHS's Office of Counternarcotics Enforcement (OCNE) and its coordination with other Federal drug enforcement programs.

Mr. Leech discussed the mission, goals and programs of OCNE, and its cooperation with other Federal programs. Ms. Flener spoke on the topic of the State's counter-drug efforts and its collaboration with High Intensity Drug Trafficking Area program activities. Sheriff Gillespie described his role in the Southern Nevada Counterterrorism Center and how it relates to violent crime and drug trafficking. He also analyzed Federal participation in this sector and suggested areas for improvement.

2. Pandemic Flu: Closing the Gaps (June 3, 2009)

Witnesses: Bernice Steinhardt, Director, Strategic Issues, U.S. Government Accountability Office; John Thomasian, Director, National Governors Association Center for Best Practices; Paul E. Jarris, M.D., Executive Director, Association of State and Territorial Health Officials; Stephen M. Ostroff, M.D., Director, Bureau of Epidemiology and Acting Physician General, Pennsylvania Department of Health.

The purpose of this hearing was to examine the steps State and local governments and communities can take to detect and treat pandemic flu.

Ms. Steinhardt discussed her report, *Influenza Pandemic: Sustaining Focus on the Nation's Planning and Preparedness Efforts* and key steps to aid in preparation, response, and recovery efforts in the event of an influenza pandemic. Mr. Thomasian addressed the Nation's response to the H1N1 influenza virus and discussed outstanding requirements needed to form an efficient national response to pandemics.

On the second panel, Dr. Jarris spoke about the State and territorial reaction to the novel H1N1 epidemic and the health agencies' abilities to provide a timely response in a future influenza pandemic. He also described State and Federal collaboration with the private sector on response plans. Dr. Ostroff represented the voice of public health practitioners and epidemiologists and their experiences with national epidemic response processes.

3. *The Next Big Disaster: Is the Private Sector Prepared? (March 4, 2010)*

Witnesses: Stephen C. Jordan, Senior Vice President and Executive Director, Business Civic Leadership Center; John R. Harrald, Ph.D., Research Professor, Center for Technology, Security and Policy, Virginia Polytechnic Institute and State University, Co-Director and Professor Emeritus, Institute for Crisis, Disaster and Risk Management, The George Washington University, and Chair, Disaster Roundtable, The National Academies; Stephen E. Flynn, Ph.D., President, Center for National Policy.

The purpose of this hearing was to consider lessons learned from previous disasters and how to better integrate the private sector's preparations with government preparations.

Mr. Jordan scrutinized the escalating costs of disasters and the need for more funding from the private sector. He also discussed the business benefits of preparedness. Mr. Harrald provided recommendations for better utilizing the private sector in disaster preparation. Mr. Flynn examined the need for improved communal resilience. He stressed that non-government corporations have plausible assets that would be extremely beneficial to disaster stricken areas, and because these corporations are often leaders in helping damaged areas recover, the integration of these businesses should be a priority of the Subcommittee.

4. *New Border War: Corruption of U.S. Officials by Drug Cartels (March 11, 2010)*

Witnesses: Kevin L. Perkins, Assistant Director, Criminal Investigative Division, Federal Bureau of Investigation, U.S. Department of Justice; Thomas M. Frost, Assistant Inspector General for Investigations, Office of Inspector General, U.S. Department of Homeland Security; James F. Tomsheck, Assistant Commissioner, Office of Internal Affairs, Customs and Border Protection U.S. Department of Homeland Security.

The purpose of this hearing was to review the growing numbers of corrupt law enforcement personnel and how cartels rely on them to move and distribute illegal substances and other contraband throughout the United States. The witnesses also highlighted the need for policy changes to diminish this trend.

Mr. Perkins discussed the FBI's efforts to combat public corruption. Mr. Frost recommended future actions that should be taken by the Subcommittee to reinforce the success and efficiency of DHS's investigation and oversight activities, which in turn will fortify departmental programs. Mr. Tomsheck focused on his experiences with CBP and defended the integrity of its workforce.

5. *Deep Impact: Assessing the Effects of the Deepwater Horizon Oil Spill on States, Localities and the Private Sector (June 10, 2010)*

Witnesses: Hon. Bill Nelson, U.S. Senator from the State of Florida; Hon. David Camarelle, Mayor, Grand Isle, Louisiana; Billy Nungesser, President, Plaquemines Parish, Louisiana; Mark A. Cooper, Director, Louisiana Governor's Office of Homeland Security and Emergency Preparedness; Hon. Juliette Kayyem, Assistant Secretary for Intergovernmental Affairs, U.S. Department of Home-

land Security; Rear Admiral Roy Nash, Deputy Director, Federal On-Scene Commander, Deputy Unified Area Commander, U.S. Coast Guard; Ray Dempsey, Vice President of Strategy, BP America, Inc., accompanied by Darryl Willis, Vice President for Resources, BP America, Inc.

The purpose of this hearing was to discuss the impact of the Deepwater Horizon oil spill on Gulf Coast States and regions. It also assessed the efficiency of the synchronized Federal, State, local, and private sector response.

The first panel examined the effects of the oil spill on the lives and commerce of local fisherman. Panelists also discussed the impact of the spill on marine life and the environment.

The second and third panels reviewed DHS's response to the spill, as well as State and local authorities' responses. A BP representative shared a detailed report of BP's actions in response to the oil spill.

6. *A Review of Disaster Medical Preparedness: Improving Coordination and Collaboration in the Delivery of Medical Assistance During Disasters (July 22, 2010)*

Witnesses: Robert J. Fenton, Deputy Assistant Administrator for Response, Federal Emergency Management Agency, U.S. Department of Homeland Security; Kevin Yeskey, M.D., Deputy Assistant Secretary and Director of Preparedness and Emergency Operations, Office of the Assistant Secretary for Preparedness and Response Program, Department of Health and Human Services; Paul Cunningham, Senior Vice President, Arkansas Hospital Association.

The purpose of this hearing was to evaluate the Federal efforts to coordinate with the private sector to ensure that individuals affected by disasters have access to medical care.

The first panel discussed the need for future collaboration between Federal agencies and volunteer and non-profit organizations. The first panel also assessed the role and response of the National Disaster Medical System (NDMS) during catastrophic events.

The second panel reviewed flaws in the NDMS and proposed ideas for fixing the issues within the system.

7. *Flood Preparedness and Mitigation: Map Modernization, Levee Inspection, and Levee Repairs (July 28, 2010) (Joint Hearing with the Subcommittee on Disaster Recovery and the Subcommittee on State, Local, and Private Sector Preparedness and Integration)*

Witnesses: Hon. Jo-Ellen Darcy, Assistant Secretary of the Army, Civil Works, U.S. Army Corps of Engineers; Sandra K. Knight, Ph.D., Deputy Assistant Administrator, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, U.S. Department of Homeland Security; Hon. Bob Mehlhoff, District 26, Montana House of Representatives; David R. Maidment, Ph.D., Director, Center for Research in Water Resources and Hussein M. Alharthy Centennial Chair in Civil Engineering, The University of Texas at Austin, and Chair, Committee on Floodplain Mapping Technologies, and Chair, Committee on FEMA Flood Maps, National Research Council, The National Acad-

emies; Sam Riley Medlock, Policy Counsel, Association of State Floodplain Managers, and Member, National Committee on Levee Safety; Robert G. Rash, Chief Executive Officer and Chief Engineer, St. Francis Levee District of Arkansas; Joseph Suhayda, Ph.D., Interim Director, Louisiana State University Hurricane Center, and Chairman, Independent Technical Review Committee, FEMA/USACE Louisiana Storm Surge Study.

The purpose of this hearing was to assess preparedness among flood-prone communities and responsible Federal organizations. The hearing witnesses evaluated the precision of the FEMA flood map modernization process, its effect on States, methods for dispute resolution, and the influence of levee inspections and certifications on determinations of flood risk.

The first panel conferred about agencies such as USACE and FEMA's role in assisting communities with flood preparation, especially as related to the national flood plain remapping efforts and levees.

The second panel analyzed levee construction accuracy and recommended several solutions to the faulty structure. This panel also suggested a collaboration of goals between various disaster relief organizations. State and Federal agency cooperation was also suggested.

8. *Earthquake Preparedness: What the United States Can Learn from the 2010 Chilean and Haitian Earthquakes (September 30, 2010)*

Witnesses: William L. Carwile, III, Associate Administrator for Response and Recovery, Federal Emergency Management Agency, U.S. Department of Homeland Security; Dirk W. Dijkerman, Acting Assistant Administrator, Bureau for Democracy, Conflict, and Humanitarian Assistance, U.S. Agency for International Development; Cristobal Lira, Director, Committee for Earthquake and Tsunami Emergency (March-August 2010), Reconstruction Committee (since August 2010), Chilean Ministry of Interior; James M. Wilkinson, Executive Director, Central United States Earthquake Consortium; Ellis M. Stanley, Sr., Vice President, Dewberry, and Director, Western Emergency Management and Homeland Security Services; Reginald DesRoches, Ph. D., Professor and Associate Chair, Georgia Institute of Technology School of Civil and Environmental Engineering.

The purpose of this hearing was to learn about international earthquake response in the aftermath of the Haiti and Chile earthquakes. The Subcommittee heard from two witnesses who recounted their role in either the earthquakes in Haiti on January 12, 2010 or the earthquake in Chile on February 27, 2010. The purpose of these testimonies was to compare the responses of the foreign governments and help inform the U.S. Government's preparation for an earthquake on American soil.

The first panel explained the use of the New Madrid Seismic Zone Catastrophic Planning Project as a model for collaboration at every level of government, the private sector, voluntary organizations, and non-governmental businesses. This group also reflected upon USAID responses to foreign disasters.

The second panel reviewed the hazard of an earthquake in the central United States. This panel encouraged voluntary programs and praised their resiliency in previous disasters such as the Chilean earthquake. The urgency to produce more technologies to combat natural disaster-related damages was also stressed during this panel.

II. LEGISLATION

(1) S. 3243—Anti-Border Corruption Act of 2010—Requires the Secretary of Homeland Security (DHS) to ensure that: (1) by not later than 2 years after enactment of this Act, all applicants for law enforcement positions with U.S. Customs and Border Protection (CBP) receive polygraph examinations before being hired for such positions; and (2) by not later than 180 days after enactment of this Act, CBP initiates all periodic background reinvestigations for all of its law enforcement personnel.

It also requires the Secretary to make periodic progress reports to the House Committee on Homeland Security and the Senate Committee on Homeland Security and Governmental Affairs on CBP progress in complying with the requirements of this Act.

On January 4, 2011 it became Public Law No: 111-376.

(2) S. 2863—Emergency Response Act of 2009—Amends the Robert T. Stafford Disaster Relief and Emergency Assistance Act to redefine “major disaster” as any natural disaster (including pandemics), act of terrorism, or other manmade disaster (under current law, any natural catastrophe) in any part of the United States that, in the determination of the President, causes damage of sufficient severity and magnitude to warrant major disaster assistance to supplement the efforts and resources of States, local governments, and disaster relief organizations.

It also directs the Secretary of Homeland Security (DHS) to designate a representative to lead a working group with national organizations that represent State, local, and tribal government interests to prepare best practice recommendations for facilitating the flow of public health information to State fusion centers and the greater homeland security community.

On December 10, 2009 it was referred to Senate committee and the status is that it was read twice and referred to the Committee on Homeland Security and Governmental Affairs.

(3) S. 713—FEMA Accountability Act of 2009—Directs the Administrator of the Federal Emergency Management Agency (FEMA) to: (1) complete an assessment to determine the number of temporary housing units purchased by FEMA that it needs to maintain in stock to respond appropriately to emergencies or major disasters; and (2) establish criteria for determining whether individual temporary housing units stored by FEMA are in usable condition, including appropriate criteria for formaldehyde testing and exposure of such units. Requires the Administrator to establish and implement a plan for: (1) storing the number of temporary housing units that the Administrator has determined that FEMA needs to maintain in stock; (2) transferring, selling, or otherwise disposing of such units in FEMA’s inventory that are in excess of that number and in usable condition; and (3) disposing of such units that are determined not to be in usable condition.

Makes the plan subject to Robert T. Stafford Disaster Relief and Emergency Assistance Act disposal requirements and other applicable law. Directs the Administrator to report to the appropriate congressional committees on the status of the distribution, sale, transfer, or other disposal of temporary housing units under this Act.

On May 20, 2010 it was referred to the Subcommittee on Water Resources and Environment.

(4) S. 1288—Emergency Management Assistance Compact Reauthorization Act of 2009—Amends the Post-Katrina Emergency Management Reform Act of 2006 to authorize the use of Emergency Management Assistance Compact grants to: (1) educate emergency response providers by offering training materials and courses relating to the Compact; (2) conduct exercises regarding deployments under the Compact and related procedures; (3) establish a system for tracking resources deployed under the Compact; and (4) conduct after-action assessments, prepare reports, and carry out recommendations in response to large-scale activations, as determined appropriate by Compact administrators. Authorizes appropriations for Compact grants for FY2010-2012.

On July 15, 2010 it was held at the desk.

AD HOC SUBCOMMITTEE ON DISASTER RECOVERY

CHAIRMAN: MARY L. LANDRIEU, CHAIRMAN

RANKING MINORITY MEMBER: LINDSEY GRAHAM

I. HEARINGS

1. *A New Way Home: Findings from the Disaster Recovery Subcommittee Special Report and Working with the New Administration on a Way Forward—March 18, 2009*

Witnesses: Nancy Ward, Acting Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Nelson Bregón, General Deputy Assistant Secretary, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, accompanied by Milan Ozdinek, Deputy Assistant Secretary, Office of Public Housing and Voucher Programs; Karen Paup, Co-Director, Texas Low Income Housing Information Service; Krystal Williams, Executive Director, Louisiana Housing Alliance; Sheila Crowley, Ph.D., President and CEO, National Low Income Housing Coalition; and Reilly Morse, Senior Attorney, Mississippi Center for Justice.

The purpose of this hearing was to assess the findings of SDR's Special Report on disaster housing assistance entitled, "Far From Home: Deficiencies in Federal Disaster Housing Assistance after Hurricanes Katrina and Rita and Recommendations for Improvement."

Witnesses from FEMA and HUD addressed the report's recommendations and the future of disaster housing assistance in general.

The second panel addressed the report's findings and recommendations and their implications on the recovery of individuals in each State. They discussed ideas for reform which were not included in the report, but which they believed would lead to better outcomes in catastrophes. Finally, the witnesses offered recommendations from their own work for consideration by Congress and the Administration.

2. *The Role of the Community Development Block Grant Program in Disaster Recovery—May 20, 2009*

Witnesses: Hon. Haley Barbour, Governor, State of Mississippi; Dominique Duval-Diop, Senior Associate, PolicyLink; Melanie Ehrlich, Ph.D., Member of the Louisiana Recovery Authority Housing Task Force, and Founder, Citizens' Road Home Action Team; Karen Paup, Co-Director, Texas Low-Income Housing Information Services; Reilly Morse, Senior Attorney, Mississippi Center for Justice; Hon. Roger F. Wicker, U.S. Senator from the State of Mississippi; Hon. Haley Barbour, Governor of the State of Mississippi; Paul Rainwater, Executive Director, Louisiana Recovery Authority; Charles (Charlie) Stone, Executive Director, State of Texas, Office of Rural Community Affairs; Charlie S. Stone, Executive Director, State of Texas, Office of Rural Community Affairs; and Frederick Tombar III, Senior Advisor to the Secretary for Disaster and Recovery Programs, U.S. Department of Housing and Urban Development.

The purpose of this hearing was to examine the Gulf Coast States' use of approximately \$23.5 million in Community Development Block Grant (CDBG) funds received from HUD after Hurricanes Katrina, Rita, Gustav, and Ike.

The first panel consisted of housing advocates, who discussed how their States had used CDBG funds to pay for State-run housing programs.

The second panel examined advantages and disadvantages of using CDBG to pay for recovery operations. Panelists also discussed funding restrictions and controversial aspects of the Road Home program. The panel consisted of Federal and State officials, including a HUD official, who discussed the agency's plans for allocation of remaining disaster CDBG funds and a statutory prohibition on the use of funds for Federal matching requirements.

3. *Are We Ready? A Status Report on Emergency Preparedness for the 2009 Hurricane Season—June 4, 2009*

Witnesses: Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Major General Frank Grass, Director of Operations, U.S. Northern Command; George Foresman, Advisory Board Co-Chairman of the ReadyCommunities Partnership, Corporate Crisis Response Officers Association, Former Undersecretary, Preparedness and Emergency Response, U.S. Department of Homeland Security; Armond Mascelli, Vice President, Disaster Operations, American Red Cross; and Janet Durden, President, United Way of Northeast Louisiana.

The purpose of this hearing was to evaluate preparedness at the Federal, regional, State, and local levels for the 2009 hurricane season. The hearing provided a discussion of lessons learned from the 2008 season and how they were incorporated into the response planning for the current year.

The first panel's witnesses discussed preparedness measures and the U.S. Army's role in disaster response and coordination with States' National Guards.

The second panel discussed the private sector's role in emergency planning, activities of the American Red Cross' Disaster Operations and the role of the 211 system during the 2005 and 2008 hurricane seasons.

4. *Focusing on Children in Disasters: Evacuation Planning and Mental Health Recovery—August 4, 2009*

Witnesses: Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Rear Admiral Nicole Lurie, M.D., Assistant Secretary for Preparedness, U.S. Public Health Service, U.S. Department of Health and Human Services; Cynthia A. Bascetta, Director, Health Care, U.S. Government Accountability Office; Mark K. Shriver, Vice President and Managing Director of U.S. Programs at Save the Children, and Chairperson, National Commission on Children and Disasters; Irwin Redlener, M.D., Professor, Clinical Population and Family Health, and Director, National Center for Disaster Preparedness, Mailman School of Public Health, Columbia University, and President, Children's Health Fund; and Teri Fontenot, Presi-

dent and Chief Executive Officer, Women's Hospital, Baton Rouge, Louisiana.

The purpose of this hearing was to review the increase in the number of disasters compared with previous decades. This increase demonstrated the need for a better evacuation plans for children in disaster-prone areas and a post-disaster program to ensure the mental safety of the children. Witnesses focused on children's role in disaster preparation and recovery.

The first panel examined the separate methods needed for children and adults, and the requirement to prioritize child care after disaster recovery to facilitate overall recovery in disaster-stricken regions.

The second panel discussed the reflexive habit of lumping children in with "vulnerable" and special needs populations including pregnant women, the elderly, and the disabled. Panelists also discussed previous disaster situations that have been important lessons learned in disaster planning.

5. Disaster Case Management: Developing a Comprehensive National Program Focused on Outcomes—December 2, 2009

Witnesses: Elizabeth A. Zimmerman, Assistant Administrator, Disaster Assistance, Federal Emergency Management Agency, U.S. Department of Homeland Security; David Hansell, Principal Deputy Assistant Secretary, Administration for Children and Families, U.S. Department of Health and Human Services; Frederick Tombar, Senior Advisor, Office of the Secretary, U.S. Department of Housing and Urban Development; Kay E. Brown, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office; Amanda Guma, Health Services Policy Director, Louisiana Recovery Authority; Rev. Larry Snyder, President and Chief Executive Officer, Catholic Charities USA; Diana Rothe-Smith, Executive Director, National Voluntary Organizations Active in Disasters; Irwin Redlener, M.D., Professor, Clinical Population and Family Health, and Director, National Center for Disaster Preparedness, Columbia University Mailman School of Public Health, and President, Children's Health Fund; Stephen P. Carr, Program Director, Mississippi Case Management Consortium; and Monteic A. Sizer, M.D., President and Chief Executive Officer, Louisiana Family Recovery Corps.

The purpose of this hearing was to discuss the Federal Government's plans to develop a National Disaster Case Management Program and the extent to which these plans address the needs of disaster survivors.

The first panel explained their goals of disaster recovery for all citizens and stressed the importance of making it a joint effort, due to the magnitude of the project. Meeting the overall goal of rapid response requires a national program that is centered on results.

The second panel discussed Federal policy changes that could aid in developing a system that will help survivors recover more rapidly. Prior to recommending actions, representatives from various organizations discussed how multi-organizational partnerships will encourage cooperation amongst other disaster relief agencies.

6. *Children and Disasters: A Progress Report on Addressing Needs—December 10, 2009*

Witnesses: Mark K. Shriver, Chairperson, National Commission on Children and Disasters; Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Rear Admiral Nicole Lurie, M.D., MSPH, Assistant Secretary for Preparedness, U.S. Public Health Service, U.S. Department of Health and Human Services; William Modzeleski, Associate Assistant Deputy Secretary, Office of Safe and Drug-Free Schools, U.S. Department of Education; Paul G. Pastorek, Louisiana State Superintendent of Education; Matt Salo, Legislative Director of the Health and Human Services Committee, National Governors Association; Melissa Reeves, Ph.D., Chairperson, Prevent, Reaffirm, Evaluate, Provide, and Respond, Examine (PREPaRE) Committee, National Association of School Psychologists; and Douglas W. Walker, Ph.D., Project Director, Fleur-de-lis Project.

The purpose of this hearing was to evaluate the Interim Report released on October 14, 2009 by the National Commission on Children and Disasters and the status of administrative and legislative efforts to implement its recommendations. The report identified shortcomings in disaster preparedness, response, and recovery and outlined steps to better address the needs of children throughout each phase.

The first panel examined the needs of children and disaster preparedness. Panelists also discussed FEMA's efforts to fix the shortcomings in response and recovery programs by better tailoring them to the needs of children.

The second panel addressed perspectives on what is working and what challenges continue after disasters. This panel talked about new requirements such as each school having a crisis management plan to minimize damage and recover swiftly. Other topics included the State function in meeting the health care needs of children during disasters.

7. *Stafford Act Reform: Sharper Tools for a Smarter Recovery—May 12, 2010*

Witnesses: Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Matt Jadacki, Deputy Inspector General, Office of Emergency Management Oversight, Office of Inspector General, U.S. Department of Homeland Security; Hon. Joseph P. Riley, Jr., Mayor of Charleston, South Carolina, and Member, Stafford Act Reform Task Force, U.S. Conference of Mayors; David Maxwell, Director and Homeland Security Advisor, Arkansas Department of Emergency Management, and President, National Emergency Management Association; and Sheila Crowley, Ph.D., President and Chief Executive Officer, National Low Income Housing Coalition.

The purpose of this hearing was to discuss concerns about the Robert T. Stafford Disaster Relief and Emergency Assistance Act and proposals for its reform. Hurricanes Katrina and Rita revealed inadequacies in the Act's ability to support comprehensive disaster recovery, so the panelists were asked to recommend reforms.

The first panel reviewed FEMA's policies and revisions that have been made to improve post-disaster aid. The panelists also recommended revisions to the Stafford Act.

The second panel witnesses determined that a case management system should be community-based and that communities should have a reliable disaster plan before a tragedy strikes. They also recommended changes to the Stafford Acts which would enable more efficient recoveries in the future.

8. *Flood Preparedness and Mitigation: Map Modernization, Levee Inspection, and Levee Repairs—July 28, 2010 (Joint Hearing with the Subcommittee on Disaster Recovery and the Subcommittee on State, Local, and Private Sector Preparedness and Integration)*

Witnesses: Hon. Jo-Ellen Darcy, Assistant Secretary of the Army, Civil Works, U.S. Army Corps of Engineers; Sandra K. Knight, Ph.D., Deputy Assistant Administrator, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, U.S. Department of Homeland Security; Hon. Bob Mehlhoff, District 26, Montana House of Representatives; David R. Maidment, Ph.D., Director, Center for Research in Water Resources and Hussein M. Alharthy Centennial Chair in Civil Engineering, The University of Texas at Austin, and Chair, Committee on Floodplain Mapping Technologies, and Chair, Committee on FEMA Flood Maps, National Research Council, The National Academies; Sam Riley Medlock, Policy Counsel, Association of State Floodplain Managers, and Member, National Committee on Levee Safety; Robert G. Rash, Chief Executive Officer and Chief Engineer, St. Francis Levee District of Arkansas; and Joseph Suhayda, Ph.D., Interim Director, Louisiana State University Hurricane Center, and Chairman, Independent Technical Review Committee, FEMA/USACE Louisiana Storm Surge Study.

The purpose of this hearing was to assess preparedness among flood-prone communities and responsible Federal organizations. The hearing witnesses evaluated the precision of the FEMA flood map modernization process, its effect on States, methods for dispute resolution, and the influence of levee inspections and certifications on determinations of flood risk.

The first panel conferred about agencies such as USACE and FEMA's role in assisting communities with flood preparation, especially as related to the national flood plain remapping efforts and levees.

The second panel analyzed levee construction accuracy and recommended several solutions to the faulty structure. This panel also suggested a collaboration of goals between various disaster relief organizations. State and Federal agency cooperation was also suggested.

9. *Five Years Later: Lessons Learned, Progress Made, and Work Remaining from Hurricane Katrina—August 26, 2010 (Field hearing was held in Chalmette, Louisiana)*

Witnesses: Gregory C. Rigamer, Chief Executive Officer, GCR and Associates, Inc., New Orleans, Louisiana; Amy Liu, Deputy Director and Senior Fellow, Metropolitan Policy Program, The Brook-

ings Institution, Washington, DC; Hon. Charlie Melancon, a Representative in Congress from the State of Louisiana; Hon. Steve Scalise, a Representative in Congress from the State of Louisiana; Hon. Joseph Cao, a Representative in Congress from the State of Louisiana; Hon. Shaun Donovan, Secretary, U.S. Department of Housing and Urban Development; Paul Rainwater, Commissioner of Administration, State of Louisiana, and Former Executive Director, Louisiana Recovery Authority; Doris Voitier, Superintendent, St. Bernard Parish Schools; Mark Schexnayder, Agent, Louisiana State University Agriculture Center; Lauren Anderson, Chief Executive Officer, Neighborhood Housing Services of New Orleans; Hon. W. Craig Fugate, Administrator, Federal Emergency Management Agency, U.S. Department of Homeland Security; Lieutenant General Robert Van Antwerp, Jr., Chief of Engineers, U.S. Army Corps of Engineers; Mitchell J. Landrieu, Mayor, City of New Orleans; Kevin Davis, President, St. Tammany Parish; and Jeff Hingle, Sheriff, Plaquemines Parish.

The purpose of this hearing was to highlight Louisiana's progress, setbacks and continuing needs as it worked to recover and rebuild from the 2005 hurricane season. On August 29, 2005, Hurricane Katrina made landfall in southeast Louisiana as a Category 3 Hurricane. It caused severe destruction along the Gulf Coast from central Florida to Texas, much of it due to the storm surge. The most severe loss of life occurred in New Orleans, which flooded when the levee system catastrophically failed. Eventually 80 percent of the city and large tracts of neighboring parishes flooded, and the floodwaters lingered for weeks. Five years later, Louisiana was still working towards a full recovery.

The first panel assessed the work that had been done by the Federal and State Governments and provided an overview of the remaining work to be done.

The second panel discussed the impact of Hurricane Katrina on schools, fisheries and wetlands, and the progress made since 2005. Panelists also discussed efforts to rebuild housing and revitalize neighborhoods.

*10. Gulf Coast Recovery: An Examination of Claims and Social Services in the Aftermath of the Deepwater Horizon Oil Spill—January 27, 2011*¹

Witnesses: Kenneth R. Feinberg, Administrator, Gulf Coast Claims Facility; Craig Bennett, Director, National Pollution Funds Center, U.S. Coast Guard; Ve Nguyen, Member, United Louisiana Vietnamese American Fisherfolks; Rear Admiral Eric Broderick, D.D.S., M.P.H., Deputy Administrator, Substance Abuse and Mental Health Services Administration, U.S. Department of Health and Human Services; Albert L. Keller, Executive Vice President, Gulf Coast Restoration Organization, BP America, Inc.; Tom Costanza, Executive Director, Office of Justice and Peace, Catholic Charities, Archdiocese of New Orleans; and Lori R. West, Director of Inter-

¹Hearing was held in the 112th Congress but included here as this was the last hearing of SDR before the committee reorganized. In February 2011, the Subcommittee on State, Local, and Private Sector Preparedness and Integration (SLPSPI) and the Subcommittee on Disaster Recovery (SDR) combined to form the Subcommittee on Disaster Recovery and Intergovernmental Affairs (DRIA).

national Relief and Development and Current Chairman, South Mississippi Voluntary Organizations Active in Disasters.

The purpose of the hearing was to evaluate recovery from the Deepwater Horizon Oil Spill by reviewing progress made and challenges remaining for oil spill and moratorium claims as well as nonprofit social service providers. The GCCF worked with nearly 500,000 individuals and businesses to replace lost wages and revenue. The Baton Rouge Area Foundation (BRAAF) was preparing for its second round of payments to rig workers and others affected by the moratorium on offshore drilling and BP is administering State and local government claims. Non-governmental organizations (NGOs) were helping people to prepare and submit their claims and also working to provide for unmet needs, such as feeding and utility assistance, case management, financial literacy, job training, and mental health services. This hearing was intended to continue a constructive dialogue between the Federal, State, and local governments, the GCCF, BRAAF, BP, and NGOs involved in providing claims assistance and social services to families affected by the oil spill.

The first panel discussed the State and local government claims process as well as improvements made and challenges that remain.

The second panel discussed outstanding needs among spill-affected households and businesses in the affected States.

II. LEGISLATION

(1) S. 1069—Ratepayer Recovery Act of 2009—Amends Robert T. Stafford Disaster Relief and Emergency Assistance Act of cite conditions under which the President is authorized to make disaster assistance contributions for the repair, restoration, reconstruction, or replacement of private or investor-owned power transmission and distribution facilities damaged or destroyed by a major disaster. Cites conditions for large in-lieu contributions to a private or investor-owned power facility in any case in which the owner determines that the public welfare would not be best served by repairing, restoring, reconstruction, or replacing the facility.

On June 9, 2009, the Committee on Homeland Security and Governmental Affairs referred to Subcommittee on Disaster Recovery.

(2) S. 1088—A bill to authorize certain construction in coastal high hazard areas using assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act—Deems: (1) certain activity in coastal high hazard area to be an eligible use of assistance under provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act regarding hazard mitigation and repair, restoration, and replacement of facilities damaged by Hurricane Katrina, Rita, Gustav, or Ike; and (2) any new construction or substantial improvements to structures under such an activity involving critical actions to not be required to elevate to the 500-year floodplain if it would be impracticable.

Makes this applicable to any assistance under such Act relating to a major disaster declared on or after August 28, 2005, relating to such hurricanes.

On May 20, 2009, it was read twice and referred to the Committee on Homeland Security and Governmental Affairs.

SUBCOMMITTEE ON CONTRACTING OVERSIGHT

CHAIRMAN: CLAIRE McCASKILL (D-MO)

RANKING MINORITY MEMBERS: SUSAN COLLINS (R-ME), ROBERT BENNETT (R-UT), AND SCOTT BROWN (R-MA)¹

The Subcommittee on Contracting Oversight has broad oversight authority over all aspects of Federal contracting. The Subcommittee was created as an Ad Hoc Subcommittee for a limited term to expire at the conclusion of the 111th Congress.

I. HEARINGS

During the 111th Congress, the Subcommittee on Contracting Oversight held 15 hearings or roundtables; authorized 12 investigations; issued two subpoenas; made public seven previously non-public sets of information; released seven Majority Staff Analyses, Memoranda, or Fact Sheets; and introduced, or joined as original cosponsor, seven related pieces of legislation. Currently, the Subcommittee has five ongoing investigations.

The following is a summary of the activities of the Subcommittee organized by topic.

A. ADMINISTRATION OVERSIGHT

The Subcommittee held five hearings related to administration oversight. The first hearing was focused on improving Federal contracting databases and the second hearing was focused on guidance released by the Office of Management and Budget about combating waste, fraud, and abuse in Federal contracting. The third and fourth hearings were focused on improving interagency contracting. The fifth hearing was focused on the mismanagement of contracts at the Arlington National Cemetery, which led in part to unmarked and mislabeled graves, and burial errors at the historical landmark.

1. Improving Transparency and Accessibility of Federal Contracting Databases (September 29, 2009)

Witnesses: William T. Woods, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; Adam Hughes, Director, Federal Fiscal Policy, OMB Watch; A.R. Trey Hodgkins III, Vice President, National Security and Procurement Policy, TechAmerica; Mr. Vivek Kundra, Federal Chief Information Officer and Administrator for E-Government and Information Technology, Office of Management and Budget.

Overview: The hearing examined plans to integrate several current and newly created databases related to Federal procurement. In particular, the hearing examined General Services Administration's plans for the Integrated Acquisition Environment and the Architecture Operations Contract Support programs.

¹ Senator Susan M. Collins served as the Subcommittee's Ranking Member from February 11, 2009 to July 30, 2009. Senator Robert F. Bennett served as the Subcommittee's Acting Ranking Member from July 31, 2009 to March 8, 2010. Senator Scott P. Brown served as the Subcommittee's Ranking Member from March 9, 2010 through the end of the 111th Congress.

At the hearing, officials from OMB acknowledged that ultimate responsibility for both programs lies with OMB. They also acknowledged existing deficiencies in the accuracy and reliability of current databases. The Subcommittee continues to monitor OMB's progress to correct these deficiencies.

2. *Achieving the President's Objectives: New OMB Guidance to Combat Waste, Inefficiency, and Misuse in Federal Government Contracting (October 28, 2009)*

Witnesses: Hon. Jeffrey D. Zients, Chief Performance Officer and Deputy Director for Management, Office of Management and Budget.

Overview: In 2009, OMB called on Federal agencies to (1) reduce contract spending by 7 percent by FY2011, totaling approximately \$40 billion total across all agencies; (2) reduce the number of high-risk contracts by 10 percent; and (3) increase the acquisition workforce by 5 percent. The hearing examined OMB's guidance. Chairman McCaskill stressed the importance of ensuring transparency in OMB's strategy as agencies took steps to achieve the goals established by OMB.

3. *Interagency Contracts (Part I): Overview and Recommendations for Reform (February 25, 2010)*

Witnesses: Ralph C. Nash, Jr., Frederick J. Lees and E.K. Gubin Professor Emeritus of Government Contracts Law, The George Washington University Law School; Marshall J. Doke, Jr., Partner, Gardere Wynne Sewell, LLP; Steven Schooner, Associate Professor of Law and Co-Director of the Government Procurement Law Program, The George Washington University Law School; Joshua Schwartz, E.K. Gubin Professor of Government Contracts Law, Co-Director of the Government Procurement Law Program, Faculty Chair of the Presidential Merit Scholars Program, The George Washington University Law School.

Overview: The hearing was the first of two hearings on interagency contracting held by the Subcommittee. During the hearing, a panel of academic experts discussed the recent proliferation of interagency contracts and the potential benefits and detriments that could result.

4. *Interagency Contracts (Part II): Management and Oversight (June 30, 2010)*

Witnesses: John K. Needham, Director, Acquisition and Sourcing Management, U.S. Government Accountability Office; Hon. Daniel I. Gordon, Administrator, Office of Federal Procurement Policy, Office of Management and Budget; Steven J. Kempf, Acting Commissioner, Federal Acquisition Service, U.S. General Services Administration; Richard K. Gunderson, Deputy Chief Procurement Officer, U.S. Department of Homeland Security; Diane J. Frasier, Director, Office of Acquisition and Logistics Management, National Institutes of Health, U.S. Department of Health and Human Services.

Overview: The hearing examined policy concerns raised at the Subcommittee's first hearing about interagency contracts on February 25, 2010, including the potential problems with fees associated with certain contract vehicles. The hearing also examined the

need for transparency in interagency contracting and the need for reliable data.

The Subcommittee continues to explore legislation that may help provide transparency in interagency contracting.

5. *Mismanagement of Contracts at Arlington National Cemetery (July 29, 2010)*

Witnesses: John C. Metzler, Jr., Former Superintendent, Arlington National Cemetery; Thurman Higginbotham, Former Deputy Superintendent, Arlington National Cemetery; Edward M. Harrington, Deputy Assistant Secretary (Procurement), Office of the Assistant Secretary of the Army (Acquisition, Logistics, and Technology), U.S. Army; Claudia L. Tornblom, Deputy Assistant Secretary of the Army (Management and Budget), Office of the Assistant Secretary of the Army (Civil Works), U.S. Army; Kathryn A. Condon, Executive Director, Army National Cemeteries Program, U.S. Army.

Overview: After a June 2010 investigation by the Army Inspector General into unmarked and mislabeled graves at Arlington National Cemetery, the Subcommittee launched an investigation in July 2010 into allegations of contract improprieties that may have contributed to problem.

On July 29, 2010, the Subcommittee held a hearing on the mismanagement of contracts at the Cemetery. In conjunction with the hearing, the Subcommittee released a Majority Staff Memorandum for Members and Staff about the results of its investigation at the hearing. The Subcommittee's investigation revealed that the Cemetery spent between \$5.5 and \$8 million on contracts to build a system to automate its burial operations but never obtained a working system. The Subcommittee's investigation also found that 4,900 to 6,600 graves could be unmarked or mislabeled, an estimation that far exceeded the Army Inspector General's estimation.

Chairman McCaskill subpoenaed the Cemetery's former Superintendent and Deputy Superintendent to attend the hearing after both individuals declined the Subcommittee's invitations to testify. During the hearing, the former Deputy Superintendent invoked his rights under the Fifth Amendment of the Constitution, and was dismissed from the hearing by Chairman McCaskill.

The Subcommittee also heard testimony from Army officials regarding the steps they were taking to correct several newly identified errors at Arlington, including soldiers buried in the wrong graves.

To address the issues discussed at the hearing, on September 28, 2010, Chairman McCaskill, along with Senator Brown, Senator Lieberman, Senator Collins, and Senator Burr as original co-sponsors, introduced S. 3860—*A Bill to Require Reports on the Management of Arlington National Cemetery*.

B. AFGHANISTAN AND IRAQ

The Subcommittee held four hearings and one roundtable related to Federal contracts in Afghanistan and Iraq. The first hearing was focused on security contracts at the U.S. Embassy in Kabul, the second hearing was focused on the U.S. Government's reliance on contractors in Afghanistan, the third hearing was focused on train-

ing contracts for Afghan National Police Training, and the fourth hearing was focused on the work of the Special Inspector General for Afghanistan Reconstruction. The Subcommittee's roundtable reviewed U.S. Agency for International Development reconstruction and development contracts in Afghanistan.

1. Allegations of Waste, Fraud, and Abuse in Security Contracts at the U.S. Embassy in Kabul (June 10, 2009)

Witnesses: William H. Moser, Deputy Assistant Secretary for Logistics Management, U.S. Department of State; Samuel Brinkley, Vice President, Homeland and International Security Services, Wackenhut Services, Inc.

Overview: On May 19, 2009, the Subcommittee began investigating allegations of misconduct related to private security contracts at the U.S. Embassy in Kabul. The Subcommittee reviewed over 5,000 pages of documents submitted by the State and the contractor, ArmorGroup North America Inc. (AGNA).

On June 10, 2010, the Subcommittee held a hearing to question State and AGNA officials about the information revealed by the Subcommittee's investigation. At the hearing, the Subcommittee released a Majority Staff Analysis and previously non-public documents regarding the AGNA contract. The Subcommittee's analysis included the following troubling revelations:

- AGNA's performance under the contract was so inadequate that the contracting officer concluded "I consider the contract deficiencies [. . .] to endanger performance of the contract to such a degree that the security of the U.S. Embassy in Kabul is in jeopardy";
- AGNA's staffing failures had "deteriorated to a level that . . . [the lack of personnel] gravely endanger[ed] performance of guard services in a high-threat environment such as Afghanistan";
- According to the government, there were "extended periods of time when the Armorer, Radio Technician, and Medic positions have been vacant"; and
- In inspections conducted as recently as March 2009, at least 18 guards were absent from their posts at the embassy.

The Department of State defended the Department's decision to retain AGNA as the contractor and exercise its option to continue the contract for a second year.

In August 2009, subsequent troubling revelations about the misconduct of AGNA employees prompted additional inquiries. In September 2009, Secretary of State Hillary Clinton sent a letter to Chairman McCaskill stating that a number of AGNA employees had been terminated and the State's Bureau of Diplomatic Security had been tasked with providing additional supervision over the contractor. In December 2009, the State Department notified the Subcommittee that it would not be renewing its contract with AGNA for a third option year and would award a new contract for guard security at the U.S. Embassy in Kabul by the end of 2010. The Subcommittee continues to investigate private security contractors, inherently governmental functions, and other related issues, including the use of personal services contractors to perform oversight.

To address the issues discussed at the hearing, on February 24, 2010, Senator McCaskill along with Senator Feingold and Senator Leahy as original co-sponsors, introduced *S. 3037, The Enhancing Oversight and Security at United States Missions Act of 2010*.

2. Afghanistan Contracts: An Overview (December 17, 2009)

Witnesses: Colonel William H. Campbell, III, Director of Operations, Office of the Under Secretary of Defense (Comptroller), U.S. Department of Defense; Edward M. Harrington, Deputy Assistant Secretary (Procurement), U.S. Army; Charles North, Senior Deputy Director, Afghanistan-Pakistan Task Force, U.S. Agency for International Development; Daniel F. Feldman, Deputy Special Representative for Afghanistan and Pakistan, U.S. Department of State; Jeffrey Parsons, Executive Director, Army Contracting Command, U.S. Army, U.S. Department of Defense.

Overview: By December 2009, the United States had spent \$23 billion on contracts performed in Afghanistan since 2002. In addition, over 104,000 Defense Department contractors were in Afghanistan by that time, with the possibility of as many as 56,000 additional contractors. Following President Obama's December 1, 2009 announcement of increased troop levels in Afghanistan, Chairman McCaskill held a hearing to examine spending and reliance on contractors in Afghanistan.

Witnesses from the Defense Department and the State Department testified regarding their plans to manage and oversee this increase in contractors. In general, the hearing revealed that lessons learned from contracting failures in Iraq were not being applied in Afghanistan.

The Subcommittee released a Majority Staff Memorandum for Members and Staff at the hearing.

3. ROUNDTABLE: Business Perspectives on United States Agency for International Development Reconstruction and Development Contracts in Afghanistan (February 2, 2010)

Participants: Larry Walker, President, The Louis Berger Group, Inc.; Bill Van Dyke, President, Black and Veatch Federal Services Division; Richard Dreiman, President, Chemonics International, Inc.; Richard Owens, Director of Community Stabilization, International Relief and Development Inc.; James Boomgard, President and CEO, Development Alternatives, Inc.; Richard McCall, Senior Vice President and Chair Council of Senior Advisors, Creative Associates International; Asif Shaikh, President, International Resources Group; Patrick Bryski, Principal, Deloitte LLP.

Overview: On February 2, 2010, the Subcommittee hosted a roundtable on USAID reconstruction and development contracts in Afghanistan. During the roundtable, seven company presidents and one company CEO spoke with Chairman McCaskill about USAID contracts for road, power plant, infrastructure, agricultural, and educational development in Afghanistan.

The roundtable was followed by a working session for participants and Subcommittee staff. Participants agreed that USAID's oversight of contracts was deficient. In addition, participants agreed that a lack of central command at the U.S. Embassy in Kabul was affecting reconstruction and development efforts.

4. *Contracts for Afghan National Police Training (April 15, 2010)*

Witnesses: Hon. Gordon S. Heddell, Inspector General, U.S. Department of Defense; Evelyn R. Klemstine, Assistant Inspector General for Audits, U.S. Department of State; Hon. David T. Johnson, Assistant Secretary, Bureau of International Narcotics and Law Enforcement Affairs, U.S. Department of State; David S. Sedney, Deputy Assistant Secretary of Defense for Afghanistan, Pakistan, and Central Asia, Office of the Assistant Secretary of Defense for Asian and Pacific Security Affairs, U.S. Department of Defense.

Overview: The hearing examined problems with the Defense Department's and State's administration of the Afghan National Police training contract. The hearing was shaped by two developments: (1) a February 2010 joint audit report by the Inspectors General for the Defense Department and State Department that found serious deficiencies in the management of the contract; and (2) a March 2010 sustention by the Government Accountability Office of the contractor DynCorp's protest that the Defense Department's attempt to transfer the contract to an existing counterterrorism contract was unauthorized.

At the hearing, the Defense Department Inspector General Heddell testified that the training currently being provided by contractors was inadequate. In addition, in June 2009, the State Department had only one in-country contracting officer's representative in Afghanistan monitoring the main Afghan National Police task order.

After the hearing, the Defense Department officials notified the Subcommittee that the Defense Department planned to competitively award a new contract by December 2010.

To address the issues discussed at the hearing, Chairman McCaskill offered an amendment, titled Sense of Congress and Reports on Training of Afghan National Police, to the FY2011 National Defense Authorization Act.

5. *Oversight of Reconstruction Contracts in Afghanistan and the Role of the Special Inspector General (November 18, 2010)*

Witnesses: Hon. Jon T. Rymer, Inspector General, Federal Deposit Insurance Corporation, and Chair, Audit Committee, Council of the Inspector General on Integrity and Efficiency; Hon. Richard W. Moore, Inspector General, Tennessee Valley Authority, and Chair, Investigation Committee, Council of the Inspectors General on Integrity and Efficiency; Arnold Fields, Special Inspector General for Afghanistan Reconstruction; Hon. Gordon S. Heddell, Inspector General, U.S. Department of State; Michael G. Carroll, Deputy Inspector General, U.S. Agency for International Development; Stuart W. Bowen, Jr., Special Inspector General for Iraq Reconstruction.

Overview: The hearing examined the role of the Special Inspector General for Afghanistan Reconstruction in providing independent oversight of contingency contracts in Afghanistan. The hearing also assessed SIGAR's effectiveness in preventing and identifying waste, fraud, and abuse of taxpayer dollars.

6. *Investigation: The Logistics Civil Augmentation Program (LOGCAP)*

The Subcommittee launched an investigation related to the LOGCAP contract. The investigation is focused on the Department of Defense's oversight and management lapses of the contract.

The Subcommittee requested and reviewed several hundreds of pages of documents and received multiple briefings from the Defense Department officials related to LOGCAP. The Subcommittee has also moved through its procedures to release previously non-public information related to LOGCAP.

The Subcommittee continues to investigate LOGCAP.

C. ACCOUNTABILITY

The Subcommittee held two hearings related to accountability. The first hearing was focused on improving the ability of Inspectors General to combat waste, fraud, and abuse in Federal contracting and the second hearing was focused on holding foreign contractors accountable for harming U.S. personnel.

1. *Improving the Ability of Inspectors General to Detect, Prevent, and Prosecute Contracting Fraud (April 21, 2009)*

Witnesses: Hon. Brian D. Miller, Inspector General, General Services Administration; Hon. Richard L. Skinner, Inspector General, U.S. Department of Homeland Security; Charles W. Beardall, Deputy Inspector General for Investigations, U.S. Department of Defense; J. Anthony Ogden, Inspector General, U.S. Governmental Printing Office, Chairman of the Legislation Committee, Council of the Inspectors General Council on Integrity and Efficiency.

Overview: The hearing examined additional tools needed by Inspectors General to detect and prosecute contracting fraud. The Subcommittee has maintained a productive working relationship with the Inspector General community and continues to work with individual Inspectors General and the Council of Inspectors General for Integrity and Efficiency on policy issues and needed legislation related to Federal contracting.

2. *Accountability for Foreign Contractors: The Lieutenant Colonel Domenic "Rocky" Baragona Justice for American Heroes Harmed By Contractors Act (November 18, 2009)*

Witnesses: Hon. Tim Ryan, a Representative in Congress from the State of Ohio, Dominic Baragona, Father of Lieutenant Colonel Domenic "Rocky" Baragona; Scott Horton, Professor, Lecturer-in-Law, Columbia Law School; Ralph G. Steinhardt, Professor of Law and International Affairs, The George Washington University Law School; Tony West, Assistant Attorney General, Civil Division, U.S. Department of Justice; Richard T. Ginman, Deputy Director for Program Acquisition and Contingency Contracting, Defense Procurement and Acquisition Policy, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, U.S. Department of Defense; Uldric I. Fiore, Jr., Suspension and Debarment Official, and Director, Soldier and Family Legal Services, Office of the Judge Advocate General, Department of the Army, U.S. Department of Defense.

Overview: On May 19, 2003, Lt. Col. Dominic “Rocky” Baragona was killed in Safwan, Iraq, when his vehicle was struck by a truck driven by an employee of the Kuwait & Gulf Link Transport Company—a Kuwaiti company with hundreds of millions of dollars in U.S. contracts and subcontracts. On May 12, 2005, Lt. Col. Baragona’s family brought a wrongful death lawsuit against KGL in Federal court in Georgia and won a \$4.9 million default judgment. However, after KGL contested the judgment on the grounds of personal jurisdiction, the court found in KGL’s favor and vacated the judgment.

On November 17, 2009, Senator McCaskill along with Senator Collins, Senator Bennett, Senator Brown, Senator Nelson, Senator Lemieux, and Senator Casey, introduced *S. 2782—The Lieutenant Colonel Dominic “Rocky” Baragona Justice for American Heroes Harmed by Contractors Act*, a bill that requires a foreign entity that enters into a contract over \$5 million with the U.S. Government to consent to personal jurisdiction in civil suits involving serious bodily injury, rape, or sexual assault for actions arising out of the performance of the contract.

The hearing examined the legislation. The hearing also examined the policy implications of current suspension and debarment practices throughout the government and whether agencies and departments were fully utilizing the tools currently available to them to identify, prevent, and prosecute wrongdoing by contractors. Finally, the hearing explored legal ambiguities that are being exploited by foreign entities who contract with the United States.

In conjunction with the hearing, the Subcommittee released a review of suspension and debarments across the government. The data showed that the Federal Government had failed to exercise its suspension and debarment authority.

3. Investigation: Earmarks

On March 16, 2009, Chairman McCaskill sent a letter to Secretary Robert Gates requesting information on the award of contracts for congressional earmarks by the Defense Department. Since then, the Subcommittee has been working with the Defense Department to obtain information on the approximately 4,500 earmarks awarded in 2008 and 2009, but has only received documents related to fewer than 500 earmarks. Although information relating to both contract awards and earmark allocations is publicly available through separate databases, it is not readily accessible—even to the Defense Department officials.

In the future, the Subcommittee plans to hold a hearing that examines the extent to which the Defense Department uses competition in the awarding of contracts for earmarks. The hearing would also examine the lack of transparency in the earmark process. In addition, the Subcommittee is considering legislation that would require such information to be centrally located in the Federal Procurement Database System.

4. Investigation: Contract Audits at Federal Agencies

On April 9, 2010, Chairman McCaskill sent an agency-wide letter requesting information on contract audits performed by 22 Federal departments and agencies. Chairman McCaskill specifically re-

requested information on the costs of such audits, the organizations performing such audits, and the frequency of such audits for 2009. Preliminary responses to the letter indicated a wide discrepancy in the type and number of audits performed by various agencies. For example, some agencies perform hundreds of audits per year while other agencies perform as few as one audit per year.

In the future, the Subcommittee plans to hold a hearing that would examine the variance in and results of audits performed by various agencies. The hearing would also examine whether sufficient oversight is being performed within the agencies to ensure that taxpayer dollars are not being wasted on contracts.

5. Investigation: Contractors Hired to Respond to Congress

Only July 6, 2010, Chairman McCaskill sent a second agency-wide letter requesting information on the use of contractors to respond to congressional requests at 19 Federal departments and agencies. Although the Federal Acquisition Regulation prohibits agencies from using contractors to perform inherently governmental functions (i.e. drafting congressional testimony and responses to Congress), information indicates that a growing number of agencies may be using contractors for such purposes. For example, the Department of Defense hired a contractor to respond to the Subcommittee's request for information on counternarcotics contracts, which raised questions about the aforementioned FAR position.

The Subcommittee reviewed responses to Chairman McCaskill's agency-wide letter and determined appropriate next steps.

D. COUNTERNARCOTICS

The Subcommittee launched one investigation and held one hearing related to counternarcotics. The investigation and the hearing were focused on the failure of the Department of Defense and the State Department to manage contractors for counternarcotics assistance in Latin America.

1. Counternarcotics in Latin America (May 20, 2010)

Witnesses: Hon. David T. Johnson, Assistant Secretary for International Narcotics and Law Enforcement Affairs, U.S. Department of State; William F. Wechsler, Deputy Assistant Secretary for Counternarcotics and Global Threats, U.S. Department of Defense.

Overview: The hearing examined Defense Department and State Department contracts for counternarcotics assistance in Latin America. A major focus of the hearing was the lack of available metrics to evaluate contract spending on counternarcotics activities in Latin America, including both Departments' own inability to accurately measure spending. For example, the State Department provided annual reports to Congress which showed that the State Department paid more than \$940 million to contractors performing work in Colombia alone from 2005 to 2008. However, documents provided to the Subcommittee by the State Department showed that the State Department has only spent \$360 million on contracts related to counternarcotics activities in Mexico, Colombia, Peru, Bolivia, Ecuador, Haiti, Guatemala, and the Dominican Republic combined over the previous 10 years.

At the hearing, Chairman McCaskill addressed both Departments' failure to significantly comply with the Subcommittee's requests for information and documents, including the possibility of issuing subpoenas for noncompliance. Witnesses from both Departments committed to fully complying with the Subcommittee's requests. Currently, the Subcommittee has received additional documents and information and is preparing a staff analysis that will summarize this information for public release.

E. MEDICARE AND MEDICAID

The Subcommittee launched one investigation and held one hearing related to Medicare and Medicaid. The investigation was focused on contracts with the Medicare Secondary Payer Recovery. The hearing was focused on the Centers for Medicare and Medicaid Services management and oversight of contracts.

1. *Oversight of Contract Management at the Centers for Medicare and Medicaid Services (April 28, 2010)*

Witnesses: Kay L. Daly, Director, Financial Management and Assurance, U.S. Government Accountability Office; Rodney L. Benson, Director, Office of Acquisition and Grants Management, Centers for Medicare and Medicaid Services, U.S. Department of Health and Human Services.

Overview: In 2009, the Centers for Medicare and Medicaid Services spent nearly \$4 billion on contracts. In October 2009, GAO released a report entitled, *Centers for Medicare and Medicaid Services: Deficiencies in Contract Management Internal Control are Pervasive*. Chairman McCaskill was a co-requester of the report. In January 2010, Chairman McCaskill, requested that GAO conduct additional work relating to the scope and extent of CMS contracts.

The hearing examined problems identified with CMS's management and oversight of these contracts. GAO found that "pervasive deficiencies" in CMS contract management (i.e. weak internal controls, inadequate staffing, and unreliable data) put CMS at increased risk of improper payments and waste.

2. *Investigation: The Medicare Secondary Payer Recovery Contractor*

In September 2009, the Subcommittee launched an investigation into contracts with the Medicare Secondary Payer Recovery program, a program that was created in 1980 to reduce Medicare costs. The investigation revealed problems with the performance of the Medicare Secondary Payer Recovery Contractor during the first half of 2009. However, the MSPRC significantly improved its performance during the second half of 2009. Although internal weaknesses within the MSPRC continued, the MSPRC increased its rate of response to communications and decreased its backlog of cases.

F. SMALL BUSINESS

The Subcommittee launched one investigation and held one hearing related to small business. The investigation and the hearing were focused on contracting preferences for Alaska Native Corporations within the Small Business Administration's 8(a) program.

1. Contracting Preferences for Alaska Native Corporations (July 16, 2009)

Witnesses: Debra Ritt, Assistant Inspector General for Auditing, Office of Inspector General, U.S. Small Business Administration; Joseph Jordan, Associate Administrator, Office of Government Contracting and Business Development, U.S. Small Business Administration; Shay Assad, Acting Deputy Under Secretary of Defense for Acquisition and Technology, U.S. Department of Defense; Sarah L. Lukin, Executive Director, Native American Contractors Association; Jacqueline Johnson Pata, Executive Director, National Congress of American Indians; Julie Kitka, President, Alaska Federation of Natives; Mark Lumber, Senior Vice President, Federal Programs, Cirrus Technology, Inc.; Christina Schneider, Chief Financial Officer, Purcell Construction Corporation.

Overview: The hearing examined contracting preferences for Alaska Native Corporations within the SBA's 8(a) program. The hearing was based on an investigation launched by the Subcommittee in which 20 requests for information from ANCs and village corporations were made and over 1,800 pages of documents submitted in response to these requests were reviewed.

The witnesses at the hearing responded to questions based on the findings of the Subcommittee's investigation. The findings were made public in two Majority Staff Analyses and included the following:

- "Contract awards to Alaska Native Corporations increased by 916 percent, from \$508.4 million in 2000 to \$5.2 billion in 2008";
- "Of the contract dollars awarded to ANCs in 2008, 80 percent were performed outside of Alaska in 2008";
- "The majority of the Alaska Native Corporations surveyed by the Subcommittee exceed the size requirements applicable to other 8(a) companies;" 11 out of the 19 companies surveyed "have had annual revenues higher than the Small Business Administration's limit since 2002"; and
- "The 19 Alaska Native Corporations which provided information to the Subcommittee employ more than 45,000 individuals throughout their corporations. Of these individuals, approximately 2,400—5.2 percent—are shareholders or relatives of shareholders of the employing Corporation. On average, nearly 95 percent of ANC employees are not ANC shareholders."

In conjunction with the Subcommittee's hearing, the Inspector General of the SBA released a report on July 10, 2009 entitled, "Participation in the 8(a) Program by Firms Owned by Alaska Native Corporations." Representatives for ANC lobbying groups criticized both the SBA report and the Subcommittee's findings.

On October 28, 2009, the FY2010 National Defense Authorization Act was signed into law and included a provision that eliminates certain preferences for Alaska Native Corporations. Section 811 of the law requires Federal agencies to provide written justification and approval prior to awarding any sole-source contract over \$20 million. Chairman McCaskill was an outspoken supporter of this provision.

On November 17, 2010, Chairman McCaskill introduced S. 3959—*To eliminate the preferences and special rules for Alaska Native Corporations under the program under section 8(a) of the Small Business Act.*

II. LEGISLATION

The Subcommittee on Contracting Oversight does not have legislative authority. However, the Subcommittee's investigations and hearings have revealed the absence of needed reform in various aspects of Federal procurement law. During the 111th Congress, Chairman McCaskill introduced the following legislative proposals in her capacity as a Senator.

A. *Enhancing Oversight and Security at United States Missions Act of 2010 (S. 3037)*

On February 24, 2010, Senator McCaskill, along with Senator Feingold and Senator Leahy, introduced S. 3037—*The Enhancing Oversight and Security at United States Missions Act of 2010*. The bill would require the Secretary of State, in coordination with the Secretary of Defense, to establish a plan to increase the oversight of private security contractors at Embassies where Armed Forces are engaged in combat operations. In particular, the bill would require the following:

- A determination of the appropriate ratio of U.S. security personnel to private security contractors;
- A coordinate increase in U.S. security personnel or decrease in private security contractors;
- An establishment of practices to adequately train personnel and assign oversight responsibility sufficient to maintain embassy security; and
- Annual reports to Congress.

Components of *The Enhancing Oversight and Security at United States Missions Act of 2010* have been adopted and proposed in Section 842 of the FY2011 National Defense Authorization Act. Section 842 of the FY2011 NDAA amends existing law to require the head of a contracting activity to ensure that a "sufficient" number of oversight personnel are assigned to contracts for private security functions in areas of combat operations. Section 842 would also mandate that the failure of contractors to comply with certain requirements be considered in award fees, entered into past performance databases, and, in cases of failures to comply that were severe or prolonged, referred to suspension and debarment officials as a basis for suspension or debarment.

B. *Lieutenant Colonel Dominic "Rocky" Baragona Justice for American Heroes Harmed by Contractors Act (S. 2782)*

On November 17, 2009, Chairman McCaskill, along with Senator Collins, Senator Bennett, Senator Brown, Senator Nelson of Florida, Senator Lemieux, and Senator Casey, re-introduced S. 2782—*The Lieutenant Colonel Dominic "Rocky" Baragona Justice for American Heroes Harmed by Contractors Act*. The bill requires foreign entities that enter into contracts over \$5 million with the United States to consent to personal jurisdiction in civil suits involving serious bodily injury, rape, or sexual assault for actions

arising out of the performance of the contract. The bill also amends the Federal Acquisition Regulation to give agencies and departments the explicit authority to suspend or debar foreign contractors for evasion of service of process or for failing to appear in court to answer the covered actions in the bill.

C. Justification and Approval of Sole-Source Contracts. (FY2010 National Defense Authorization Act. Pub. L. 111–84, Sec. 811 Oct. 28, 2009)

On October 28, 2009, the FY2010 National Defense Authorization Act was signed into law and included a provision that eliminates certain preferences for Alaska Native Corporations. Section 811 of the law requires Federal agencies to provide written justification and approval prior to awarding any sole-source contract over \$20 million. In effect, the law extends the justification and approval requirements of the Competition in Contracting Act to sole-source contracts awarded to ANCs and other entities under the 8(a) program. The law required implementation of the new requirements by April 2010. However, to date, the provision has not been implemented and OMB has delayed further action until it engages in further consultation with ANCs. In addition, ANC lobbying groups have worked since the Subcommittee’s hearing on the passage of the legislation to limit the implementation of changes.

Chairman McCaskill was an outspoken supporter of this provision. At the hearing on July 16, 2009, entitled “Contracting Preferences for Alaska Native Corporations,” the Subcommittee heard testimony relating to the numerous preferences that allow ANCs and Indian tribes to receive sole-source contracts above the \$3.5 and \$5.5 million limits imposed on other 8(a) participants, without complying with the CICA requirements. Chairman McCaskill made repeated public requests to OMB for an explanation as to why it has delayed implementation of the law. The Subcommittee continues to explore opportunities for additional legislation to address other noncompetitive preferences for ANCs.

D. The Acquisition Workforce Improvement Act of 2009 and Federal Acquisition Institute Improvement Act of 2009 (S. 2901 and S. 2902).

In December 2009, Senator Collins introduced two related bills to strengthen training and performance in the acquisition workforce. Chairman McCaskill joined as an original co-sponsor.

The Acquisition Workforce Improvement Act of 2009 would establish an acquisition management fellows program with academic and workforce training components. *S. 2901—The Federal Acquisition Institute Improvement Act of 2009* would enhance acquisition training standards, certification requirements, and guideline standards. The legislation would also ensure that the Federal Acquisition Institute received sufficient budgetary resources to support improved training across the Federal Government.

The acquisition workforce increased by approximately 15 percent between 2000 and 2008 during the same time in which contract spending increased over 160 percent to \$540 billion. The acquisition workforce has been strained throughout the Federal Govern-

ment, which the Subcommittee has called attention to in a number of hearings.

E. FY2011 National Defense Authorization Act. S. 3454, Sections 843, 857, and 1216

Chairman McCaskill worked with Members to shape additional provisions in the FY2011 National Defense Authorization Act based on problems identified in Subcommittee hearings and investigations. The following provisions all deal with issues being investigated by the Subcommittee.

1. Enhancements of Authority of Secretary of Defense to Reduce or Deny Award Fees to Companies Found to Jeopardize Health or Safety of Government Personnel (Sec. 843)

Section 843 of the National Defense Authorization Act of 2011 enables the Secretary of Defense to reduce or deny award fees to companies found to have jeopardized the health and safety of U.S. Government personnel. Section 843 also gives the Secretary new authorization to determine fault in cases where he or she has reason to believe that a contractor, in the performance of a contract, may have caused serious bodily injury to or the death of civilian or military personnel. Section 843 is related to concepts advanced by *The Lieutenant Colonel Dominic "Rocky" Baragona Justice for American Heroes Harmed by Contractors Act*.

2. Contractor Logistics Support of Contingency Operations (Sec. 857)

Section 857 of the FY2011 NDAA requires the Defense Department to plan for the roles and responsibilities contractors will play as well as the overall manpower and contractor support anticipated by the military. These issues are to be analyzed in the Quadrennial Defense Review, a review by the Defense Science Board, and in the National Military Strategy. The most recent QDR had almost no discussion of the implications that reliance on contractors has for the military's readiness, capabilities, and overall makeup.

3. Sense of Congress and Reports on Training of Afghan National Police (Sec. 1216)

Section 1216 of the FY2011 National Defense Authorization Act expresses the sense of Congress that the U.S. Government should take measurable actions to improve its capacity to advise and mentor the Afghan National Police and clarify the law enforcement organization's roles, missions, and responsibilities for police training and rule of law operations. This section also requires separate reports from the following officials and agencies:

- A report from the Defense Department Inspector General on developments in the Afghan National Police training program;
- A report from GAO on the use of U.S. Government personnel instead of contractors for the training of the Afghan National Police; and
- A report from the Secretary of Defense on the strategy for police training and rule of law programs in Afghanistan, Iraq, and elsewhere abroad.

After the Subcommittee's April 15, 2010 hearing on the Afghan National Police training contract, Chairman McCaskill took an active role in pressing for the reporting requirements.

F. Civilian Extraterritorial Jurisdiction Act of 2010 (S. 2979)

On February 2, 2010, Senator Leahy, along with Chairman McCaskill and other members, introduced S. 2979—*The Civilian Extraterritorial Jurisdiction Act of 2010*. The bill authorizes prosecution of civilian and contractor employees for certain crimes committed while working overseas, and includes contractor employees employed by or accompanying any U.S. department or agency other than the Armed Forces. In addition, the bill requires the Department of Justice to establish overseas investigative units staffed by FBI and other law enforcement officials that have the authority to investigate and make arrests.

CEJA would extend existing law to cover all civilian and contractor employees working overseas. The Military Extraterritorial Jurisdiction Act, the precursor to CEJA, explicitly covers Department of Defense contractors and subcontractors and, as amended in 2005, all Federal agencies and their contractors in felony criminal actions. However, MEJA only applies to the extent that the work of such agencies and contractors relates to "supporting the mission of the Department of Defense overseas."

On December 31, 2009, *U.S. v. Slough et al.*, a case involving five former Blackwater employees charged with murder for the September 2007 shooting deaths of 17 people in Nisour Square, in Iraq, was dismissed on unrelated grounds. The case did not address the question of whether defendants, as contractors with the State Department, could be prosecuted under existing Federal law, and is being appealed. CEJA would make such contractor employees subject to future prosecution.

G. A bill to Require Reports on the Management of Arlington National Cemetery (S. 3860)

On September 28, 2010, Chairman McCaskill introduced S. 3860—*To Require Reports on the Management of Arlington National Cemetery* along with Senator Brown, Senator Lieberman, Senator Collins, and Senator Burr as original co-sponsors. The bill requires the Secretary of the Army to report to Congress on the ability of the Cemetery to verify the identity, location, and burial records for gravesites at the historical landmark and present plans to remedy any errors found in the review. The bill also requires the Comptroller General to present a report to Congress on the management and oversight of contracts at the Cemetery, including a review of feasibility and advisability of transferring all or part of the Army's jurisdiction over Army National Cemeteries to the Veterans Administration.

On December 4, 2010, the Senate passed an amended version of S. 3860 by unanimous consent. The bill was sent to the House on December 6. On December 7, Chairman McCaskill and Senator Brown sent a letter to Speaker Nancy Pelosi, Republican Leader John Boehner, and the Chairmen and Ranking Members of the House Armed Services and Veterans' Affairs Committees, requesting that the House act to pass the legislation before the close of the

111th Congress. On December 22, 2010, S. 3860 became Public Law 111-339.

H. A bill to Eliminate the Preferences and Special Rules for Alaska Native Corporations under the Program under Section 8(a) of the Small Business Act (S. 3959)

On November 17, 2010, Chairman McCaskill introduced S. 3959—*To Eliminate the Preferences and Special Rules for Alaska Native Corporations under the Program under Section 8(a) of the Small Business Act*. This legislation will place ANC on equal footing with other eligible 8(a) program participants.

